

The resolution (S. Res. 309), as amended, reads as follows (existing law is printed in roman, new matter in italics, and matter to be omitted is enclosed in black brackets):

[S. Res. 309, 76th Cong., 3d sess.]

RESOLUTION

Whereas authentic reports indicate that German and other foreign corporations enjoy a measure of control over some of our most important defense industries; and

Whereas an American corporation which supplies glass for instruments and weapons for the Army and Navy has been shown to have close relations with a German concern involving disclosure of secret processes; and

Whereas one of the most important metals, invaluable in the manufacture of airplanes, is controlled by a corporation half of whose stock is reliably reported to be owned by the German Chemical Trust; and

Whereas information has come to hand that some large concerns important to national defense have deferred national interests to monetary considerations, by giving preference to foreign munitions orders; and

Whereas national defense, with which the American people are vitally concerned, demands the elimination of any such abuses and foreign controls which are contrary to our national interests: Therefore be it

Resolved, That the Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is authorized and directed to make, and to report to the Senate the results of, a thorough and complete investigation of acts, practices, methods, and omissions to act, by persons, partnerships, associations, corporations, other entities, and foreign governments, in interstate or foreign commerce, and of conditions of interstate or foreign commerce, which may or do delay, interfere with, or obstruct the national defense, including among other things—

(1) Part or entire ownership by stock or otherwise of, influence in, control of, and power over, domestic business and production related to national defense, by any foreign person, partnership, association, corporation, foreign government, or agents or instrumentalities thereof, or other entity;

(2) Pooling arrangements *affecting national defense* or other contracts or agreements between any one or more of the foregoing, and any American person, partnership, association, corporation, or other entity, for interchange of business or trade secrets or other information, for interchange of patents or processes or patent rights, for allocation of sales or places of doing business or production, for restriction of production, or for fixing of prices;

(3) Sale, directly or indirectly, in or for foreign commerce, of materials or products, whether raw, semifinished, or finished, used or usable in war industries or war activities or preparations by any foreign person, partnership, association, corporation, or other entity *affecting national defense*;

(4) Financial arrangements and demands therefor with respect to profits, taxes or other matters, affecting national defense;

(5) Restraints of trade by foreign or domestic persons, partnerships, associations, corporations, or other entities, whether through monopolies or otherwise, affecting national defense.

The Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is authorized and directed to obtain such facts as other Government agencies may have, and to secure the assistance of other Government agencies in the investigation hereby authorized.

For the purposes of this resolution the committee or any duly authorized subcommittee thereof is authorized to hold such hearings, to sit and act at such times and places, either in the District of Columbia or elsewhere, during the sessions, recesses, and adjourned periods of the Senate in the Seventy-sixth and subsequent Congresses, to employ such experts, and clerical, stenographic, and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production and impounding of such books, papers, and documents, to administer such oaths, and to take such testimony and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. [The expenses of the committee, which shall not exceed \$50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.]

INVESTIGATION OF INTERSTATE COMMERCE CONDITIONS AFFECTING NATIONAL DEFENSE

SEPTEMBER 24 (legislative day, SEPTEMBER 18), 1940.—Ordered to be printed

Mr. WHEELER, from the Committee on Interstate Commerce, submitted the following

REPORT

[To accompany S. Res. 309]

The Committee on Interstate Commerce, to whom was referred the resolution (S. Res. 309) to investigate conditions of interstate and foreign commerce which may or do delay, interfere with, or obstruct the national defense, having considered the same, report thereon with a recommendation that the resolution do pass as amended.

The American people, being vitally concerned with the problem of preparing an adequate national defense, have embarked on a far-reaching program which has called forth loyal and patriotic support. It has been made apparent that for most Americans no sacrifice is too great to make to carry forward the public interest. The task before our country is one which we wish to keep free of delays and obstacles, though some delays may for a time present themselves as the result of adapting ordinary channels of industrial production to the fabrication of defense materials and fighting machines. We may expect delays to be eliminated as the defense program progresses. This expectation is confirmed by past experience. But past experience suggests, however, that we may have to face difficulties of another sort which, instead of diminishing, will increase in seriousness as defense needs grow more urgent. Difficulties of this sort include those growing out of conditions in interstate and foreign commerce which, because of controls, pressures, or influences, tend to have an unwholesome and detrimental effect upon the whole defense program. Until precise information is available it will be impossible to know the full extent of this problem or to initiate suitable measures to deal with it.

The resolution directs particular attention to authentic reports that German and other foreign corporations exercise a measure of control over defense industries, and the resolution proposes that through

investigation be made to determine, and hence make possible the elimination of any abuses or harmful practices. It is said that Germany's interest in American industry amounts to many hundreds of millions of dollars and, though detailed information is unavailable, it is believed that certain drugs, optical equipment, chemicals, minerals, alloys, etc., are subject to absentee control or pressures which investigation may disclose to be inappropriate to the country's defense needs.

This investigation ought to be a constructive one. It must be remembered that in times of stress it is especially necessary to guard against injustice being done anyone. The committee is concerned that no industry or business be injured and that legitimate business be not hampered or interfered with in any way. It is well known that many of the contracts and agreements which might be a subject of inquiry were entered into during peacetime and in perfect good faith. If some of these arrangements are presently hampering our own national-defense efforts, it is well that the facts be brought to light; but judgments ought to be deferred until after an impartial, fair, and constructive investigation sifts idle rumors from the true facts.

There have been charges that a situation may exist which parallels conditions encountered by the Government in 1915-19 in connection with defense preparations. It is imperative for us to discover if this is so. At a congressional hearing in 1926 (69th Cong., 1st sess., hearings before a subcommittee of the House Ways and Means Committee on H. R. 10820, pt. I, pp. 131-136) Lt. Col. Joseph I. McMullen, Judge Advocate General's Department, War Department, testified:

The situation that the War Department found, beginning in 1915, * * * was that a great many of what are known as key industries were dominated by German-owned American patents. * * * There was a domination of German-owned American patents in these various fields of industry which were important to the national defense. I will just mention a few of them.

Take for instance, optical glass. We had no optical glass in this country. If you will recall, we had to go around to all the private citizens of the country and get their field glasses and opera glasses in order to get optical glass to make sighting instruments for our artillery. * * * The same situation was true with respect to alkaloidal drugs and pharmaceuticals.

* * * General Ireland, Surgeon General of the Army, * * * stated that drugs essential to the conduct of the war; that is, atropine, phenacetin, quinine, and salvarsan, were among the most important which were controlled by the German monopoly of American-owned patents—that is, American patents owned by Germans; also that over 80 percent of the surgical instruments industry was dominated by German-owned patents.

This is what General Ireland said:
"Germany not only had an iron-bound monopoly on synthetic drugs, but was able to largely control the market as to alkaloidal drugs."

* * * * *
The same statement which was made as to drugs was also true as to magnetos. Germany, through its American-owned patents, absolutely dominated the American market on magnetos for automobiles. * * * That was the reason for, early in the game, our seizing the German Bosch magneto patents and setting up an American industry to produce these magnetos, because we had to have them for trucks.

It may be pertinent to note that, according to a 1940 financial reference manual, three-fourths of the common stock of the successor magneto company is now held by, or in the name of, foreign interests. Another reference manual states that this firm has been producing motor parts for the American airplane industry.

The situation with regard to German investments in the United States before the first World War was apparently as little known as it is today. Circuit Court Judge Wooley, writing the opinion of the court in *U. S. v. Chemical Foundation* (5 F. (2d) 191, 197), stated:

When the law [authorizing the President to take over alien property] was enacted * * * there was little knowledge of German investments in the United States. They were known to be large but they were not suspected as being hostile to American interests. But this idea was quickly dispelled. Responding to the mandate of the act, persons and corporations in the United States having enemy-owned property in their custody made 35,000 reports of such property to the Custodian.

* * * * *
It was also quickly revealed that all enemy-owned property was not property of casual private German investors but, on the contrary, was in large part owned by the Junker class and no inconsiderable part was owned by the royal family and by the Kaiser, himself. It also developed almost at once that a large portion of property had definite and hostile effects upon the interests of the United States. These are examples:

The Orenstein Arthur-Koppel Co., a great German firm, engaged in the business of installing inside railways in industrial plants, had for 20 years been competing for plant equipment all over the country on plans and specifications which were forwarded to their office in Berlin and thence to the German Government.

A number of German-owned fire-insurance companies had accumulated plans of industrial plants which likewise were forwarded to their home offices and thence to the proper German bureaus.

The Bosch Magneto Co. manufactured special apparatus for airplanes. Before the entrance of the United States into the war it had made contracts (in some instances through American concerns) to supply such appliances to the Allies. In complicity with Privy Councilor Albert, the German financial representative in the United States during the early period of the war, it succeeded by a policy of deception and delays in postponing delivery for 15 months.

Employees of the Hamburg-American and the North-Deutsche-Lloyd, German-owned steamship lines, kept close watch on the maritime business of the United States and reported to the German Government every ship and its cargo leaving these shores.

The Florida Lumber Co. had acquired every advantageous place on the finest harbor on the Gulf of Mexico, the nearest harbor on American soil to the Panama Canal. Its files, instead of containing matters pertaining to the lumber business, were filled with Pan-German literature. The lumber plant was a distributing center of propaganda.

Other concerns cornered the market in coal-tar products that were convertible into explosives in order to hamper the manufacture of munitions. Their achievements in acquiring essential chemicals were regarded by the German Government authorities as equivalent to the destruction of a train of 400 cars loaded with explosives.

A statement, based on the Alien Custodian's report of 1919, was presented to the 1926 House committee by William Campbell Armstrong, a New York attorney, on the subject of these operations in coal-tar products (pt. IV, p. 109 et seq.):

It was found that the chemical industry was a natural center for espionage and that the relation between the German Government and the great German chemical houses was so close that representatives of the industry were direct representatives of the Government.

The same was true of the great German banks, particularly of the Deutsche Bank, represented in this country by one Hugo Schmidt. The relation between the Deutsche Bank, the chemical industry, and the German Government is best illustrated by the notorious case of the Lehigh Coke Co. That company was organized by a syndicate represented by the Deutsche Bank before the war in 1915. It established a plant for the manufacture of coal tar and its derivatives. That is, of course, the principal ingredient for the manufacture of explosives. Every ounce of toluol and benzol which was produced was sold under contracts binding the purchaser not to use or permit the product to be used for the manufacture of explosives, or for the benefit of the Allies. The Lehigh Coke Co. was

organized to prevent the erection of a similar plant projected by the Bethlehem Steel Co. Just before we entered the war the Deutsche Bank sold the Lehigh Coke Co., through an intermediary, to the Bethlehem Steel Co.

There was also the understanding initiated by Dr. Albert, financial adviser to the German Government, in collaboration with the German ambassador.

The scheme was carried out by Dr. Schweitzer, head of Beyer. It was proposed to corner the supply in the United States of phenol, essential for the manufacture of high explosives, including TNT. Mr. Edison had commenced the manufacture of considerable quantities of this substance after the commencement of the war stopped its importation. Dr. Schweitzer purchased from the Edison Works the entire surplus of phenol and then made a contract with the Heyden Chemical Works, of which George Simon, a German subject, was manager, by which the entire supply of phenol was to be converted into harmless medicinal and flavoring products.

This involved a large profit, and Dr. Schweitzer registered the name of the Chemical Exchange Association as a copartnership consisting of himself and Richard Kny. Kny was the father-in-law of George Simon, of the Heyden Chemical Co., and the ostensible proprietor of the Kny-Scheerer Co., one of the most important manufacturers in the country of surgical instruments. Both the Heyden Chemical Works and the Kny-Scheerer Co. were purely German-owned.

As a result of the phenol transaction the Chemical Exchange made a profit of \$816,000, which was divided between Schweitzer, of Bayer, and Kny. Schweitzer's share of the profits appears to have gone directly to the German Government.

* * *

The Alien Property Custodian found that the treasury of Dr. Schweitzer's Bayer & Co. (the American company) was one of the great sources from which propaganda funds in this country were distributed. * * *

According to this statement, a representative of the German Government wrote Dr. Schweitzer to congratulate him on his efforts in connection with the purchase of bromine. The letter said that—

bromine, together with chloral, is used in making nitric gases, which are of such great importance in trench warfare, and stated that as bromine is only produced in the United States and Germany, the result of Schweitzer's efforts would be of great value to Germany.

It would be premature, in the absence of definite information such as would be produced by a thorough investigation, to assert that present defense interferences duplicate those in our past experience. That such interferences exist, however, is suggested by recent cases which have received the attention of the Government. One case concerns an American optical company which, during the last 5 years, has manufactured, distributed, and sold approximately 50 percent of all United States military optical instruments. These have included periscopes, range finders, altimeters, bomb sights, torpedo directors, etc. This corporation arranged with a leading German corporation, operating in the same field, to divide the world market; to limit sales to allotted territory; and to fix and maintain prices and terms of sale. The German and American corporations agreed to conceal the existence of the contract from third parties, and the latter corporation agreed to pay to the other a royalty equal to a percentage of the gross sales price of each military optical instrument sold, including equipment sold to the United States Government. Until enjoined by the court, in July 1940, the American corporation had declined to sell or quote prices on military optical instruments unless the German corporation consented to the sale.

In part V of the hearings of the Temporary National Economic Committee, testimony was printed relating to the development and production of beryllium, an extremely light metal used in the airplane industry, especially in Germany. Commenting on the patent pools

and agreements existing between the American and German firms who apparently jointly control the production of beryllium, and speaking before the country had undertaken its present greatly accelerated armament program, Mr. Leon Henderson, now a member of the National Defense Advisory Commission, said (p. 2058):

* * * This whole question of international agreements and understandings ought to be gone into.

Testimony offered before the Temporary National Economic Committee indicates that one of the great German trusts had employed a second American corporation to take out American beryllium patents on behalf of the German trust, and that subsequently cross-licensing agreements were arranged between the German trust and the first American corporation, in addition to marketing agreements and an exchange of royalties. Meanwhile a second German group took over the German rights and the contract with the American corporation. Without further investigation it may be impossible to determine to what extent international pressures or controls in this industry are affecting United States airplane production.

Like beryllium, "hard metal composition" is of basic importance to the defense program. It is an alloy including tungsten carbide, which is used extensively for cutting tools in the munitions, aircraft, truck, tank, and shipbuilding industries. In 1929 American interests are said to have entered into an agreement with a German trust which fixed minimum prices for hard metal composition and required licensees to observe such practices. By agreement, the American corporation consented to pay \$5 per pound into a royalty fund, two-thirds of which was to go to the German trust. Pursuant to this agreement, burdensome or restrictive clauses were allegedly inserted into the contracts of American licensees and production quotas were established. Before 1928 the price of hard metal composition sold in the United States is said to have been as low as \$48 per pound. Thereafter the price rose as high as \$453 per pound.

It has been charged that in 1936 a royalty to the German trust of 10 percent of the prices at which all hard-metal composition should be sold in the United States was substituted for the earlier \$5 per pound royalty fund. The American interests promised that no additional United States licenses for the manufacture of the alloy would be granted without the consent of the German trust. It has been reported that only three licenses have been issued. As of August 1940 the price of hard-metal composition is said to have ranged up approximately \$205 per pound, as compared with manufacturing costs of approximately \$25 per pound.

Another alloy which may be subject to controls or restrictive pressures is magnesium, a substance one-third lighter than aluminum. Despite the fact that magnesium is widely used by the German aviation industry to secure greater lifting power for airplanes, apparently only a limited supply of the alloy is being produced in the United States. The amounts manufactured under license agreements may fall far short of present or future American aviation needs.

The principal American producer of magnesium is reported to depend in part on licenses obtained from an American corporation, half of whose stock is said to be owned by a German chemical trust and half by the dominant American aluminum interests which produce

the competing (though heavier) metal substance. It has been charged that the American corporation, which controlled the supply of magnesium for the United States, agreed with a German corporation to produce only 2,000 tons while the German corporation was permitted to produce 10,000 tons a year. Another American corporation which formerly produced magnesium, though it has now apparently ceased to do so, is said to be owned half by the same rival aluminum interests and half by a corporation affiliated or associated with foreign interests including German interests. Further information and study are needed to evaluate all the circumstances surrounding the production of this defense substance.

Recent newspaper reports have asserted that problems arising in connection with the existence of cartels and conflicting international interests in the mining and smelting of tin may place serious difficulties in the way of national-defense preparations. These articles state that this country is compelled to rely on foreign deposits, since we possess a potential tin production amounting to only about 8 percent of our needs. Large reserves of tin are available in South America, but a substantial portion of these reserves are under control of an American corporation which is associated with an international tin cartel. This cartel is said to regulate closely tin production and marketing. United States-controlled South American tin, according to these reports, is shipped to Europe for smelting and then shipped back to the United States. Efforts to establish an American tin-smelting industry have not been successful, though such a step is believed essential if this country is to be freed of dependence on European sources. Since tin is used throughout major defense industries, it may be necessary to give the closest scrutiny to the question of possible obstructions or interferences with the importation of this mineral.

Changing conditions in Europe have made more complex the consideration of foreign influences on American defense industries. Regulations in several European countries place both private and corporate holdings of American stocks at the disposal of the governments of those countries, and hence deliver them into the hands of foreign war machines. Majority ownership, or a dominating or influential minority block of stock, may be used directly by a foreign government or by its agents to advance foreign interests at the expense of American interests. Scattered holdings, unimportant in themselves, may be brought together to consolidate influence or power.

When the full facts are learned they may dwarf the facts learned during the World War period, for the tremendous post-war expansion of foreign investment in this country due to unsettled European conditions may have extended the scope of foreign control over our domestic commerce. The practice of listing securities under nominees provides a means of masking this control from the public eye. It may also be significant that of the great American investment trusts, at least one had among its sponsors a leading German bank.

Another factor which may have greatly extended the influence of certain foreign countries has been the military conquest of a number of small countries whose nationals have held substantial investments in the United States. It cannot be doubted that some of these hold-

ings have now been added to those already in hostile hands. Neutral countries, known to have benevolent attitudes toward the United States, have long been used as corporate homes for foreign interests linked to American industries. This practice was noted by Eugene Staley, in *War and the Private Investor* (1935 p. 506, footnote 1):

Emil Rathenau founded the first financing corporation for the expansion of his electrical organization (the A. E. G., German General Electric) in Zurich, "correctly feeling that it would be safest to anchor the undertaking on the neutral soil of Switzerland, and also that cooperation with foreign financial powers would be facilitated thereby."

Financial empires which are owned, controlled, or influenced by Germans may be matched by financial empires in Germany in which there are large American investments. As yet it is impossible to calculate the effect upon American defense industries of pressures applied to German subsidiaries of American corporations whose plants have become enmeshed in foreign-war industries. An authority in German-American trade relations has estimated that America's stake in Germany may amount to \$2,000,000,000. This enormous investment may already have been utilized in some degree to blackmail American interests whose German plants are endangered. To the extent that reports, secret processes, formulas, and personnel are exchanged between German and American plants, there may arise the danger of disclosing to a foreign power matters which defense considerations make it unwise to reveal.

The danger of disclosure also arises in the case of pooled patents, licensed production under foreign-owned patents, royalty agreements, cartels, sales understandings or contracts, and joint exploitation under monopoly conditions. Such alliances between foreign and domestic corporations may involve the exchange of information, royalty statements, or other documents which necessarily divulge confidential details of defense orders. If an American corporation, as revealed in a recent case, must secure permission from Germany before selling bomb sights to the Army, it appears obvious that at least the number and kind of such bomb sights installed in new American fighting planes may no longer be a military secret.

At a time when so large a part of the Nation's effort is wholeheartedly concentrated upon perfecting our national defense, it is unwise to ignore any conditions in interstate or foreign commerce which may obstruct or thwart that effort. The persistence of reports of harmful conditions or tendencies makes it imperative to discover any sources of vitiating influences. Lack of information (or scattered information available only in part) in the early stages of our program may later cost us dearly. Congress has recognized the need for providing a complete and sound national defense without delay. Delays in identifying and removing defense obstructions, delays in dealing decisively with interferences which impeded our efforts in 1915-19 and now again threaten to impede our efforts, and delays in seeking information while there is still time properly to utilize that information—these are inconsistent with our determination to safeguard our democracy.