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Hearing held before

SENATE FINANCE COMMITTEE

S. J. R. 135

Washington, D. C.

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THE UNITED STATES SENATE

COMMITTEE ON FINANCE

EXECUTIVE SESSION

June 11, 1934

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UNITED STATES SENATE

COMMITTEE ON FINANCE

EXECUTIVE SESSION.

Washington, D. C.,

Monday, June 11, 1934.

The Committee on Finance this day met, pursuant to call, in the Committee Room, in the Senate Office Building, at 10:30 o'clock a. m., Senator Pat Harrison, Chairman, presiding.

Present: Senators Harrison (Chairman), King, Cautigan, Clark, Lonergan, Couzens, and LaFollette.

(The Committee had under consideration S. J. Res. 135.)

THE CHAIRMAN: Mr. B., you want to be heard on this proposition?

Mr. B.: I do not want especially to be heard, Senator, but I am here to furnish information if desired.

The Chairman: Well, we want some information.

Mr. B.: I think Mr. H. should probably state the policy of the Bill. The facts and figures, and so forth, I will be glad to give you.

Mr. H.: Mr. Chairman, the policy of the Bill is pretty well outlined, I think, in the statement that you just read. The situation, briefly, is this, that there are some cases now pending before this Mixed Claims Commission, known as the

"Sabotage Claims." If these Sabotage Claims should be allowed by the Commission, all the available funds would be required-- probably would be required to pay those claims.

The Chairman: What are the Sabotage Claims?

Mr. H.: They are claims that resulted from the so-called "Black Tom" explosion and the Kingston, New Jersey, explosion, in 1917. These plants were destroyed by these explosions, and claims amounting to some \$25,000,000 resulted. The claimants were trying to show that the explosions were the result of work of German agents who were engaged in sabotage in the United States.

The Chairman: Are those claims of Americans or German Nationals?

Mr. H.: Those are claims of Americans and American corporations, against Germany. The claims have been twice heard by the Commission, and each time dismissed, but the claimants filed a petition to have them reopened, on the ground that fraud had been practiced on the Commission, at previous hearings; that fraudulent evidence had been submitted, that evidence had been suppressed, so Justice Roberts, the umpire of the Commission, handed down a decision in December, last, to the effect that if the claimants could show that fraud had been practiced on the Commission, the claims would be reopened, and a petition is now pending before that Commission for the reopening of these claims.

Evidence has been taken, submitted to the Commission, designed to show that fraud was practiced at previous hearings. Now, if the claimants should succeed in showing that fraud was practiced, presumably the Commission would reopen the cases, and would undertake to establish and determine whether Germany was liable for these explosions, and, if so, the amount of damage that should be awarded these claimants.

Now, they have claimed something like \$25,000,000 damage, and if they should succeed in showing that the small amount of funds available for distribution to claimants would be used exclusively for the settlement of those claims, but if on the other hand the Commission should again dismiss the claims, there will be available some \$20,000,000 for distribution to claimants, who hold awards, at the present time.

The Chairman: What claimants? German Nationals or American Nationals?

Mr. H.: Well, there are two classes of claimants. The American claims were adjudicated by the Mixed Claims Commission, and unsatisfied awards, there, of some \$53,000,000, I believe.

Senator Clark: How much?

Mr. H.: I think about \$53,000,000. I am speaking more or less generally, now. Then, by the War Claims Settlement Act, of 1928, the office of our War Claims Arbiter was created, and an arbiter was appointed to pass upon the claims of

German Nationals, against the United States, on account of ships and patents and radio station taken over by us during the war. Now, the awards were given by the arbiter, to the extent of some \$86,000,000, and about \$43,000,000 of which has not been paid. Now, on priorities, set up by the Settlement of War Claims Act, this money that is now available, some \$20,000,000, would be distributed between the American and the German Nationals, who hold awards from these two tribunals.

The Chairman: What percentage is of the German Nationals and of the American Nationals?

Mr. H.: The percentage, a little less than 50 per cent. I think the Germans would get about--something like \$9,000,000 of this \$20,000,000, and the balance would go to American Nationals.

Senator Couzens: None of these claims are governmental claims, they are all individual?

Mr. H.: No, they are not governmental claims. Now, in addition to that \$20,000,000 cash, which is available, there is also some property belonging to German Nationals under the control of the Alien Property Custodian, which, under the Settlement of War Claims Act, could be and probably would be released to German Nationals. That is a matter more particularly within the knowledge of Mr. B.

Now, very recently--in fact, the first of May--we asked

the German Government to state what their position was with respect to the payment of arrears, under the Debts Settlement Agreement of 1930. I might say that that agreement was entered into between the two governments. Under the Debts Settlement Agreement of 1930, Germany undertook to pay the United States 40,800,000 reichsmarks per annum, in settlement of American claims against Germany. No payments have been made; that is, of any consequence; since the Hoover Moratorium, so that at the present time Germany is in arrears, I think, around about \$50,000,000.

On the first of May we sent a communication to the German Embassy, and asked them what the German Government's attitude was with respect to paying the arrearage and future annual payments.

The Chairman: How long ago did they first default, since 1926?

Mr. H.: Now, under the Debts Settlement Agreement, they had the right to postpone payments for a total of 2½ years. They took advantage of that provision of the agreement, and postponed their payments. Then, this 2½ years was up, this past March, and at that time they only made a small payment--I think a million dollars, representing the interest on the defaulted amount--I mean, on the arrearage, so they, at the present time, owe us something like \$50,000,000, and they have sent in reply to our inquiry that they cannot tell us

just what they are going to do about making further payments.

The Chairman: Now, that is the German Government that owes us that much?

Mr. H.: The German Government. They say that their financial condition is such that they cannot give us any assurance as to amounts or times of payment. Now, that being the situation, very roughly, it was thought that it would not be good policy to go on and distribute this small amount of money that is here available, now, pro rata between American and German Nationals, but rather that we should hold back the amount that would go to German Nationals, until Germany makes some further arrangements.

The Chairman: Are there any questions?

Senator La Follette: Do you know whether there are any precedents for actions of this kind, Mr. H.?

Mr. H.: Yes. The Congress, as cited in this Bill, passed a resolution July 3, 1921, providing that no property held by the Alien Property Custodian should be returned, until Germany made satisfaction of American claims against Germany.

Senator La Follette: It is your contention that this is simply carrying out that same general policy?

Mr. H.: Carrying out that same general policy.

The Chairman: Have you any idea on how long the petition to reopen these sabotage claims on account of fraud will be pending?

Mr. H.: Well, it is pretty difficult to say, but it is expected that they ought to be closed up within the next few months.

The Chairman: That is, the petition to be heard?

Mr. H.: The petition to be heard?

The Chairman: And if he reopens it, then, of course, the matter will go along, and this money will be withheld?

Mr. H.: Will be withheld.

The Chairman: But, if they should turn it down and say that it should not be reopened, the sabatage claimants would have no rights?

Mr. H.: That is right.

The Chairman: Then, of course, they would feel, under those circumstances, that this money ought to be paid?

Mr. H.: That is right.

The Chairman: Any further statement, Mr. B.?

Mr. B.: I haven't any. I think Mr. H. has covered it very well.

Mr. L.: The Congress appropriated--authorized the appropriation of \$100,000,000, and thereafter has appropriated \$86,000,000, on the condition that Germany would make suitable provisions for providing funds to take care of our Nationals. Of that \$86,000,000, half went to German Nationals, and half to American Nationals, so we have, in effect, made an advance for the benefit of Germany. Now, Germany is not carrying out

that "suitable provision." In fact, she is not making suitable provision.

The Chairman: To take care of our Nationals?

Mr. L.: Correct. So, the purpose of the Bill, stated very briefly, is to say, "We will withhold payments. We will not advance any more money to pay your Nationals, when you do not continue to make provisions to pay our Nationals." We do not appropriate it in any way. We just set it aside and say, "Now, we are going to see what you are going to do."

Senator Couzens: I did not understand what became of the other \$43,000,000. Has that been distributed among our Nationals, out of the \$86,000,000?

Mr. L.: Yes, sir.

Mr. B.: Yes, sir.

The Chairman: Well, what is the pleasure of the Committee?

Senator Clark: I move we approve it.

The Chairman: What are the suggested amendments?

Mr. L.: The amendments are entirely technical ones, suggested by the Legislative Counsel, in the House. On page 3--now, I am reading from the House--we say that they shall postpone any or all.

The Chairman: What line is this?

Mr. B.: Eleven.

Mr. L.: Line 11, the same one. Delete "any or."

The Chairman: Delete what?

Mr. L.: Delete the phrase "any or."

The Chairman: Strike out "any or."

Senator Clark: So as to make it read, suspension of all payments?

Mr. L.: Yes.

Then, on the next page, in line 14, after the word "postponed", insert "under this resolution."

Then, they thought it would be wise to amend that last proviso, to make it clear that the President should determine when Germany is in default, instead of doing what had been done, merely say that his determination should be final, so that, as amended, it would read: "And provided further that the President is authorized to determine, for the purposes"---

Senator Costigan: Did you leave out "the action of"?

Mr. L.: Yes. That comes in later.

The Chairman: "Provided" what?

Mr. L.: "And provided further that the President is authorized to determine for the purposes of this resolution the period or periods in which Germany is in arrears in the payments hereinbefore described, and his determination thereof" inserted.

Then it goes on "shall not be subject to judicial review."

Senator Costigan: These are suggestions of the legis-

lative Counsel?

Mr. L.: Of the House, sir.

Senator Costigan: Of the House?

The Chairman: Without objection, then, the resolution, as amended, will be reported out.

(Whereupon, at 11 o'clock a. m., Monday, June 11, 1934, said hearing was concluded.)
