

TRUST ASSOCIATION OF H. KEMPNER

JULY 19 (legislative day, JULY 5), 1946.—Ordered to be printed

Mr. WALSH, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 334]

The Committee on Finance, to whom was referred the bill (S. 334) for the relief of the Trust Association of H. Kempner, having considered the same, report favorably thereon with the following amendments and recommend that the bill, as so amended, do pass.

On page 2, line 4, strike out the words "Secretary of the Treasury" and insert the words "Alien Property Custodian".

On page 2, line 16, strike out the words "Trust Association of H. Kempner" and insert the words "Secretary of the Treasury".

The above amendments were necessary because of the present division of functions between the Secretary of the Treasury and the Alien Property Custodian.

The bill as amended is not a relief measure in the sense that it calls for any appropriation or payment by the United States of America or out of any funds now or at any time belonging to the United States or its citizens. The bill is in the nature of an enabling act which authorizes and empowers the Court of Claims to hear and determine the amount of the respective losses incurred, on the one part, by the Texas firm of H. Kempner, cotton merchants, of Galveston, Tex., through the wrongful acts of the German Government and its courts, and, on the other part, by the Hamburg firm of Germann & Co., through the wrongful acts of the United States Government and its former Alien Property Custodian.

The losses of the American firm (H. Kempner) arise out of the sale of 22,000 bales of cotton to German spinners in 1923 and 1924. The losses of the German concern (Germann & Co.) grow out of wrongful payments from a trust account established by the Alien Property Custodian under the Trading with the Enemy Act of 1917. The amount of the claim of the American firm (H. Kempner) with interest to December 31, 1941, is \$1,886,676.02. The principal amount of the money claimed to have been wrongfully taken out of the Germann

trust account is \$971,640.03. As of August 31, 1944, and there has been no depletion, the Secretary of the Treasury had in German special deposit accounts \$10,055,472.11.

The bill further provides that when the Court of Claims has determined the amount of these respective losses, the claims shall be marshaled against each other in such manner that Kempner, the American concern, shall assign to the Trust of Germann & Co., held for their account by the Alien Property Custodian, all of its claims against the Government of Germany and German nationals, and shall, in consideration thereof, be paid by the Secretary of the Treasury, out of the German special deposit accounts, created by section 4 of the Settlement of the War Claims Act of 1928, such amount as the Court of Claims shall find was wrongfully paid out of the Trust of Germann & Co., provided, of course, that such amount does not exceed the amount of the proved losses of the Kempner firm, as found by the Court of Claims.

Both of the concerns involved are of known integrity and international repute for over 50 years and have diligently for over 20 years, at great expense, pursued every possible action, by litigation and otherwise, to recover compensation for the injuries suffered by them, but without success. Three Ambassadors and numerous other ranking officials of our Foreign Service have intervened on behalf of the Kempner firm, but without success. The German concern unremittingly from 1922 to 1937 sought justice through the State Department, the Alien Property Custodian, and the Department of Justice, but without success. Neither firm has any hope or possibility of restitution or even a modicum of justice, except through the provisions of this bill. In lengthy communications from the State Department over a period of 3 years as to the provisions of this bill, there are presented no cogent objections to its enactment. On the other hand, the bill seems to be within the principles of international law and equity, stated in the unanimous report of the Foreign Relations Committee (Rept. No. 1300, 76th Cong., 3d sess.) concurred in by Secretary of State Hull and enacted into law by the unanimous action of the Congress of the United States and approved by President Roosevelt, and now Statute 54, 1341, Private Law 509, Seventy-sixth Congress.

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