

● PSF

Spain 1938

PSF: Spain

Feb. 29, 1938.

Very Conf.

From President

Memo to the Secretary of War and Navy

Attaches telegram for their information in re-German
and Italian planes bombing in Spain.

SEE--Navy folder-Drawer 1--1938



*file
Personal*

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY
WASHINGTON

Spain

March 2, 1938

The Secretary of State encloses copies of the telegrams and despatches indicated below.

Since some of this material was transmitted in one of the Department's confidential codes, it would be appreciated if the enclosures could be returned to the Department as soon as convenient for appropriate disposition.

Enclosures:

Telegrams Nos. 457, March 2, 1 p.m., St. Jean de Luz;
17, March 2, 10 a.m., Warsaw.

Reply sent March 2
Referring to your telegram
you will find enclosed your



JR

*RJ.
Will you call
the Sec of State
& find out what
the answer was -*

GRAY

(Madrid)
St. Jean de Luz

Dated March 2, 1938

Rec'd 10:05 a.m.

Secretary of State,
Washington.

457, March 2, 1 p.m.

PERSONAL FOR THE SECRETARY.

Mailed letter on February 23 requesting authority to permit use my name as honorary chairman Spanish Child Welfare Association to look after children on both sides. Such people as Grace Abbott, Lilian Wald, Mrs. Daniel O'Day and Mrs. Arthur Lehman sufficiently indicate high character of organization. Since mailing I have a letter from Mrs. Roosevelt expressing hope I will accept. Personally convinced that refusal will subject us to reasonable criticism. Please wire answer on receipt of letter.

BOWERS

RR:HPD

Reply sent March 2

*"Referring to your telegram,
You will of course use your own
judgment"*

JR

GRAY

Warsaw

Dated March 2, 1938

Rec'd 9:30 a.m.

Secretary of State,
Washington.

17, March 2, 10 a.m.

Invitations have been extended to former President Hoover by the Polish-American Society also former and present members of A R A E C F to visit Warsaw, and by the city and University of Poznan to visit that city. Program of visit scheduled for Poznan March 10, Krakow March 11, Warsaw March 12 is being arranged by a committee from above mentioned groups and a representative from the Foreign Office. Understand invitation to Krakow will be issued by the university there.

At the request of the Foreign Office I have communicated through the Legation in Vienna a memorandum warning that certain opposition groups or individuals might take advantage of this visit to arouse sympathy, strengthen their position or stage hostile political demonstrations against the present regime. Nevertheless a general expression of satisfaction and pleasure over the proposed visit is evidenced in all circles including government.

WINSHIP

RR:WWC

THE WHITE HOUSE
WASHINGTON

March 7, 1938

*file
personal
again*

~~CONFIDENTIAL~~

MEMORANDUM FOR C. H.

Will you read this from Bowers together with copy of my reply and send them back to me. I think his letter should not be handed around in the Department.

FDR F. D. R.

memo-
I think your reply OK,
C. H.,

March 7, 1938

Dear Claude:

That is a grand letter of yours of February twentieth. I hate to think of the war in Spain as a mere laboratory which continues to be financed for experimentation.

Since you wrote, the ascendancy of Chamberlain has been established and he is evidently taking the position that it is best for the general cause of peace to make a great effort with Italy and Germany, even making concessions such as the recognition of the Ethiopian conquest. If he succeeds in establishing reasonable assurance of peace for two or three years to come even if he has to compromise with principle, he will be hailed as a great leader. If he fails or is asked to give too much and receives too little, public morality will be shot and he will be overthrown. It is impossible to guess. But fundamentally, you and I hate compromise with principle.

Joe Guffey is not running for Governor and that situation in Pennsylvania is a mess. Earle, who has done a fine job, is running for Senator but the prospects are not good in view of the attitude of CIO, etc. Indiana will, I think, come through all right. I, too, liked Fred Van Rye. He has really been of little help during the past two or three years--quite aside from the Court issue.

This situation over here is becoming more clearly an effort of the specially privileged to retain their

special privilege--and I think we can win the House
this autumn though, of course, the top-heavy majority
will be reduced.

I wish you would be considering the possibility
of coming back here to make half a dozen speeches in
September and October. In many ways it would be a good
thing if you could run over here for five or six weeks--
it would help in the State Department, itself.

As ever yours,

Honorable Claude G. Bowers,
Ambassador of the United States,
Madrid,
Spain.

fdr/mb

...dropped in the ... of the ...
...the slaughter of ...
...you described it in your ...
...Saint-Jean-de-Luz, February 20, 1938
...the Pope to respond to the request of England and France
...to join in an attempt to end this savage, barbarous slaughter.

Dear Mr. President:

You are 100 per cent right about naval preparedness. No one can see what I have seen at close hand for nineteen months without a full realization that the one sure way to the preservation of a country's peace is to convince the Gun Men and Gangsters of international politics that it is able to take care of itself. In the light of the events of the last two years it must be evident that treaties, gentlemen's agreements, international law, etc., are no longer binding on nations and that it has even become bad taste to complain about their violation.

The war in Spain is certainly not a civil war. It is an international conflict for the testing of the world's spirit by the facist international. The international reaction has been entirely satisfactory to the facist powers. And then, again, the facist powers have converted Spain into a laboratory for the testing of the efficiency of their improved methods of destruction. They have been testing their bombs on Barcelona - 1,000 kilo bombs

The President
The White House

bombs dropped in the center of the city on a Sunday resulting in the slaughter of hundreds of women and children. How accurately you described it in your Chicago speech -- "murder from the air." And how droll - the refusal of the Pope to respond to the request of England and France to join in an attempt to end this savage, barbarous slaughter.

It is commonly thought here in diplomatic circles that Italy's complacency over Hitler's annexation of Austria - why haggle over terms? - has been bought with the promise to send a German army of infantry into Spain to join the Italian army of 120,000 soldiers under the command of from a dozen to fifteen Italian generals. Mussolini has seemingly got hold of the bears tail and can't let loose. The Abyssinians, being uncivilized, refuse to writhe with grace and groan with melody and persist in killing Italians and making the "conquest" look sick. And the Spanish democracy does not capitulate before the fascist salute. And he can't borrow money and he has exhausted the sources of taxation. Franco cannot win except with the even more active support of Italian and German armies, and if Franco does not win Mussolini loses "face", and if he does not win speedily, Mussolini "loses his shirt."

Meanwhile it is clearer and clearer that the Non-Intervention Pact is depriving the constitutional Government of its right under international law to buy arms and ammunition to defend itself against foreign invasion and insurrection has succeeded in just one thing - in prolonging the war. History will record that this Pact in its operation, or non-operation, is responsible for the lives of hundreds of thousands

thousands of men, women and children.

Now if Germany sends infantry to join her 20,000 artillerymen, aviators, engineers, technicians even the League of Nations will know that a war of aggression is being waged against the Spanish democracy by the Facist powers, and I am so optimistic as to hope that even the Non-Intervention Committee may suspect.

If that comes we shall be put in an embarrassing position under our Neutrality Act. It will be difficult for us to justify our refusal under that Act to permit the constitutional Spanish Government to buy arms and amunitions, unless ^{we} ~~to~~ apply that Act to Italy and Germany that are notoriously waging a war of aggression against a country which has never harmed them. I get a good many letters from home along this line. Of course I do not answer these letters unless they are from personal friends and then I ignore that phase.

The conditions generally have changed materially during the year. The most significant change has been in the prestige and authority of the Government in the loyalist territory, and in the increasing predominance of the conservatives like Azana, Barrio, Prieto, over the subversive forces. Chester, Vice-President of the Telephone Company, who is not pro-Government was here from Barcelona last week and surprised me with the observation that the Government appears in absolute control in loyalist territory, and he amazed me most of all by adding that should the Government win he no longer doubts that the conservatives would maintain their authority.

Fifteen months ago I informed the Department that the next victim of this mythical war "against communism" will be Czechoslovakia. I based that opinion on the bitter campaign of propoganda and mis-representation against that democratic
nation

nation in the insurgent press and on my conversations with the Franco people. I imagine no one can seriously doubt it now.

Meanwhile by observing fair play and a rigid neutrality we get along satisfactorily with the Franco people. Five days after I had written personally, unofficially, to General Franco asking the immediate release of the Nantucket Chief and the immediate pardon of its Captain, sentenced to 17 years in prison, I had a cordial note from General Jordana, the Burgos Minister of Foreign Affairs, granting both requests. This was unprecedented in time, though I note that some bright reporter--in-a-hurry complained that it was not done sooner. The British with many ships captured have always waited for weeks and months for action and weeks for a reply. The courier that brought that note from Jordana brought another letter from him promising to pardon Mr. and Mrs. Fernandez serving 20 and 15 years in Palma de Mallorca, as soon as an investigation discloses that their offence was political--as it was. I was prepared in a week to renew the effort to reopen the Consulate at Bilbao if authorized by the Department and with every reason to believe we would succeed. But three days after these letters from Jordana were cabled, along with the request about Bilbao, I had a telegram from Hull, or signed "Hull" to the effect that the decision had been reached that I should go to Barcelona. I replied that I certainly would go, but I was puzzled by the change in policy. A month before the Secretary had written me that I could not go to Barcelona since my going would be interpreted as a gesture of partiality. In telegraphing Mr. Hull of my readiness I called attention

attention to this phase.

Today I had a telegram announcing that Chapman, Consul in Bilboa, has been transferred to Gibraltar, and I assume this ends the Consulate in Bilboa. I had requested that this transfer be postponed long enough for Chapman to return to Bilboa, if it could be arranged this month, to escape the possible embarrassment of sending a new man, which would necessitate submitting the new man's name to the Burgos Government for its approval. I take it for granted that nothing of the sort will be done.

I see in this morning papers that Eden has resigned, refusing to follow the brazenly facistic policy of Chamberlain, and that he has been cheered in the streets. Strange that the utterly stupid Chamberlain who in America would jostle his way into the Liberty League and write the enlightening resolutions of the American Manufacturers Association, could learn nothing from the Ipswich elections of last week when a Tory majority of 7000 was turned into a Labor majority of 3000 on England's foreign policy. The Governments of Baldwin and Chamberlain have betrayed the Democracy of England shamelessly. The time has come when in all democratic countries everyone will have to stand up and be counted--for facism or against it.

I am glad I have been here where, at close hand, I could observe the technique of the Facist International in its war--not on communism but on democracy. I expect to continue until the war is over.

I see that Joe Guffey wants to run for Governor and wonder why. If he is to have opposition it will be bad. I am deeply interested in the senatorial situation in Indiana. Minton is a "find". I have great admiration for him, and his views are mine. I am sorry however about Van Nuys whom I have known from boyhood. His friends in Indiana write me that Fred has been with the Administration on everything but the Court, and that he endangered his position when he opposed the State organization four years ago. I have a low opinion of the man said to have been selected as his opponent.

Your Chicago speech impressed me enormously. I heard it relayed from London. It is the first courageous speech in defence of democracy and international decency that any one in authority has had the temerity even in a Democracy to make. I used to be prejudiced against Lloyd George while

retaining my admiration for his genius and eloquence. His speeches in defence of the Democracy of Spain, his denunciations of the crime against the Basques, rank in style and spirit with the finest things ever said in history in defence of liberty and human rights.

Have just heard from Jim. He is not discouraged. You will recall that Jackson was pursued until the end by the hate of the privileged who sought in every way to destroy prosperity to serve their selfish ends. They can afford to lose money today if given a free hand to steal after tomorrow.

Regards and best wishes,

Sincerely,

Claude G. Bowles

Hon. Franklin D. Roosevelt
Washington, D.C.

Word has just reached us that an enormous shipment from Germany of 1000 tons bombs is on its way. It is thought to mean an utterly ruthless bombing of Barcelona, Valencia and Madrid.

DEPARTMENT OF STATE

FOR THE PRESS:

MARCH 23, 1938.
No. 137

TEXT OF A LETTER ADDRESSED TO MR. RAYMOND LESLIE BUELL,
FOREIGN POLICY ASSOCIATION, INC., NEW YORK CITY.

March 21, 1938.

My dear Mr. Buell:

I have received your letter of March 18, 1938, in which you urge that the President should revoke the Proclamation of May 1, 1937, issued under the authority of Section 1(c) of the Joint Resolution of Congress approved on the same date, which prohibits the exportation of arms, ammunition and implements of war to Spain. In support of this contention you cite the provisions of Section 1(g) of the same Act, which authorizes the President to revoke the Proclamation of May 1, 1937, whenever, in his judgment, the conditions which have caused him to issue said Proclamation have ceased to exist. You express the opinion that these conditions have now ceased to exist and that while the civil strife in Spain continues it does not now threaten the security of the United States.

The pertinent provisions of the Joint Resolution of Congress approved May 1, 1937, are as follows:

"Section 1(c) Whenever the President shall find that a state of civil strife exists in a foreign state and that such civil strife is of a magnitude or is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to such foreign state would threaten or endanger the peace of the United States, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to such foreign state, or to any neutral state for transshipment to, or for the use of, such foreign state."

"Section 1(g) Whenever, in the judgment of the President, the conditions which have caused him to issue any proclamation under the authority

of

Mr. Raymond Leslie Buell,
Foreign Policy Association, Incorporated,
8 West 40th Street,
New York, New York.

of this section have ceased to exist, he shall revoke the same, and the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed, or forfeitures incurred, prior to such revocation."

After careful consideration of all the facts I am of the opinion that there has been no change in the situation in Spain such as to warrant the President in revoking his Proclamation of May 1, 1937, prohibiting the exportation of arms, ammunition, or implements of war to that country.

Furthermore, I desire to call your attention, in this connection, to the provisions of another Joint Resolution of Congress approved January 8, 1937, which is likewise still in force. The first sentence of this Resolution provides:

"That during the existence of the state of civil strife now obtaining in Spain it shall, from and after the approval of this Resolution be unlawful to export arms, ammunition or implements of war from any place in the United States, or possessions of the United States, to Spain or to any other foreign country for transshipment to Spain or for use of either of the opposing forces in Spain."

It will be observed that by the Joint Resolution of January 8, 1937, the Congress itself found that a state of civil strife existed in Spain and placed an embargo on all shipments of arms, ammunition and implements of war to that country during the existence of the said state of civil strife.

The last paragraph of the Act of January 8, 1937, provides that "when in the judgment of the President the conditions described in this Resolution have ceased to exist, he shall proclaim such fact, and the provisions hereof shall thereupon cease to apply." It is manifest, as you yourself state in your letter under acknowledgment, that the state of civil strife in Spain described in the Joint Resolution of Congress of January 8, 1937, has not ceased to exist. Accordingly, even if the Proclamation of the President of May 1, 1937, were to be revoked, the prohibition upon the export of arms, ammunition and implements of war to Spain laid down in the Joint Resolution of Congress approved January 8, 1937, would still remain in effect.

Sincerely yours,

CORDELL HULL

COPY

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Spain

DEPARTMENT OF STATE

LEGAL ADVISER

MEMORANDUM

March 31, 1938.

The Status of the Joint Resolution of Congress Approved January 8, 1937 "To Prohibit the Exportation of Arms, Ammunition, and Implements of War from the United States to Spain."

The Joint Resolution of Congress, approved January 8, 1937, provides that "during the existence of the state of civil strife now obtaining in Spain" it shall "from and after the approval of this Resolution" be unlawful to export arms, ammunition, or implements of war from the United States or its possession to Spain, or to any foreign country for transshipment to Spain, etc. (50 Stat. 3.). The Joint Resolution came into operation on January 8, 1937, the date of its approval, by virtue of the approval and not by virtue of a proclamation issued by the President. It provides, however, that "When in the judgment of the President the conditions described in this Resolution have ceased to exist, he shall proclaim such fact, and the provisions hereof shall thereupon cease to apply."

The question arises whether the Joint Resolution of January 8, 1937, has been repealed by the terms of the Joint Resolution of Congress approved May 1, 1937.

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It is believed that (a) the language of the Joint Resolutions and (b) their history prior to their enactment, both indicate that it was not the intention of Congress to repeal the former by the approval of the latter.

(a) The language of the Joint Resolutions

As pointed out above, the Joint Resolution of January 8 enacts legislation specifically applicable to "civil strife now obtaining in Spain," and provides that when the "conditions described in this Resolution" cease to exist, the President shall proclaim such fact, whereupon the provisions of the Joint Resolution shall "cease" to apply. In other words, the Joint Resolution of January 8 is applicable to a particular situation, concerning which Congress has not delegated to the President authority to determine in his discretion whether to prohibit the shipment of arms to the particular area, but rather has itself decided that for the duration of the civil strife existing in Spain the export of arms, etc., shall be unlawful.

The Joint Resolution of May 1, on the other hand, requires, in the pertinent provision, that whenever the President shall find that a state of civil strife exists in a foreign state of such a magnitude, etc., that the export of arms, etc., from the United States to such

can foreign

foreign state "would threaten or endanger the peace of the United States," the President shall proclaim such fact, whereupon the provisions of the Joint Resolution become applicable (50 Stat. 121.). A proclamation with reference to Spain was issued under this Resolution on May 1, 1937 (50 Stat. 1831.).

Under the terms of this Resolution it is necessary that the President find that the shipment of arms, etc., to a country wherein civil strife exists shall "threaten or endanger the peace" of the United States and proclaim such fact before the terms of the Resolution become effective. This Resolution was less broad in this respect than the Resolution of January 8, although it covered a greater variety of subject-matter. The Resolution of May 1 is, however, not inconsistent with the earlier Resolution under discussion.

Upon the subject of "implied repeal" of legislation, the authorities appear to be generally agreed that: "Repeal by implication is never to be favoured."

"Every affirmative statute is a repeal by implication of a precedent affirmative statute so far as it is inconsistent or repugnant thereto."

"When the new enactment is couched in general affirmative language, and the previous law ... can well stand with it, the general affirmative languages does not repeal the previous law."

"If two statutes can be read together without contradiction, for

contradiction, or repugnancy, or absurdity, or unreasonableness, they should be read together. "When the repeal is not express, the burden is on those who assert that there is an implied repeal to show that the two statutes cannot stand together." (Edward Beal, Cardinal Rules of Legal Interpretation (2d ed., 1908) 471. See also Maxwell on the Interpretation of Statutes (7th ed., 1929) 144; 59 Corpus Juris 904-912.)

Justice Day stated in the case of United States v. Yuginovich that: "It is, of course, settled that repeals by implication are not favored. It is equally well settled that a later statute repeals former ones when clearly inconsistent with the earlier enactments." (256 U.S. 450, 463). See also United States v. Greathouse 166 U.S. (1896) 601, 605; United States v. Noce (1924) 613, 617. It is submitted that the Joint Resolutions of January 8 and May 1, 1937, are not "clearly inconsistent", that the earlier Resolution "can well stand" with the later general Resolution, and that if the two Resolutions are read together there results no "contradiction", "repugnancy", "absurdity", or "unreasonableness". This is true even though both Resolutions are applicable to the present situation existing in Spain. It is also stated that: "Where a later act covers the whole subject of earlier acts, embraces new provisions, and plainly shows that it was intended, not only as a substitute

pursuant
for

for the earlier acts, but to cover the whole subject then considered by the legislature, and to prescribe the only rules in respect thereto, it operates as a repeal of all former statutes relating to such subject matter. ... In order to effect a repeal by implication on this ground it must appear that the subsequent statute covered the whole subject matter of the former one, and was intended as a substitute for it." (59 Corpus Juris 919-921.)

In this particular instance, it would seem difficult to establish that it was "intended" that the later Resolution should be a substitute for the earlier Resolution.

(b) History of the Joint Resolutions

The title of the Joint Resolution of May 1, 1937, reads as follows: "To amend the joint resolution ... approved August 31, 1935, as amended."

The Joint Resolution approved May 1, 1937, had its origin in S. J. Res. 51. S. J. Res. 51 as passed by the Senate contained in its opening paragraph a statement similar to that just quoted above. There was no similar opening paragraph in S. J. Res. 51 as it was amended by the House. Instead, the House Amendment contained a "Repeal" section reading as follows:

"Sec. 17. The joint resolution (Public Resolution Numbered 67, Seventy-fourth Congress) approved August 31, 1935, as amended and extended by the joint resolution (Public Resolution Numbered 74, Seventy-fourth Congress) approved February 29, 1936, is hereby repealed, but such repeal shall not affect the validity of any proclamation, rule, regulation, certificate of registration, or license, issued

pursuant

pursuant to that resolution." (81 Cong. Rec., pt. III, p. 2409; S. Doc. 40, 75th Cong., 1st sess. pp. 1., 10; H. Rept. 363, 75th Cong., 1st sess. p. 5.)

On April 28, 1937, the committee of conference submitted the "Conference Report" to accompany S. J. Res. 51. The "Statement of the Managers on the Part of the House" printed therein, includes the following statements:

"Senate Joint Resolution 51 was passed and came to the House where the same was stricken and amended by an original bill covering these matters.

"The Senate receded from its disagreement to the amendment of the House and agreed to the same with an amendment as shown in the report accompanying this statement.

"A new bill was written and agreed to by all the conferees, which amends the original Neutrality Act, approved August 31, 1933 (1935), as amended, but includes all acts heretofore passed as referred to." (H. Rept. No. 723, 75th Cong., 1st Sess., p. 10.)

It will be noted that it is not stated that "all acts heretofore passed" are amended, but that "all acts heretofore passed as referred to" are amended. The acts "referred to" in S. J. Res. 51 as amended by the House, and in S. J. Res. 51 as finally approved are the Joint Resolution of August 31, 1935 and the Joint Resolution of February 29, 1936. (81 Cong. Rec., pt. 2., pp. 1650, 1791, 1807.)

The Joint Resolution of May 1, 1937, specifically states that its purpose is "to amend the joint resolution ... approved August 31, 1935, as amended." Since the Resolution specifically states that the legislation referred to

to was thereby amended, it would seem to be sound to adopt the view that the Joint Resolution did not impliedly amend or repeal other legislation.

COPY

*PSF.
Spain*

DEPARTMENT OF STATE

OFFICE OF ARMS AND MUNITIONS CONTROL

MEMORANDUM

April 11, 1938.

Eu:
PA/D:
Le:
C:
The Secretary:

There would appear to be so little merit in the contention that the Joint Resolution of January 8, 1937, was annulled by the Neutrality Act of May 1, that the point scarcely merits extensive discussion. It is my understanding that the courts will not hold that a provision of law has been repealed by implication by a subsequent law unless the implication is clear. There is certainly no such clear indication in this case. It may be pointed out that the Neutrality Act contains many provisions supplementary to the Joint Resolution of January 8 but absolutely no provisions contrary to the provisions of the Joint Resolution of January 8, and that, whereas the Neutrality Act delegates certain powers in respect to the imposition of an embargo to the President, the Joint Resolution of January 8 imposes an embargo by its own terms and merely delegates to the President the authority to lift that embargo "when the conditions

(i.e.,

(i.e., the existence of the state of civil strife now obtaining in Spain) described in this Resolution have ceased to exist". There was no evidence whatever in the discussion of the neutrality bill in Congress nor, as far as I can recollect, was there any indication in the discussions which occurred in the Committees that Congress had any intention, when it authorized the President under certain conditions to take further action in respect to the civil strife in Spain, to repeal the Congressional embargo on the exportation of arms which had already been imposed by Congress for the duration of the conflict. If the passage of the Neutrality Act did not repeal by implication the Joint Resolution of January 8, certainly the issuance of proclamations pursuant to that Act could not be held to repeal the Joint Resolution. That the Department at no time held that the Joint Resolution had been repealed by implication is evidenced by the fact that the text of the Joint Resolution of January 8 was printed in the collection of Laws and Regulations Administered by the Secretary of State Governing the International Traffic in Arms, Ammunition, and Implements of War and Other Munitions of War, which was drafted and approved immediately after the passage of the Neutrality Act and which became effective on June 1, 1937.

It

It was reprinted in the laws and regulations effective
April 1, 1938, which superseded on that date the previous
regulations.

.

J. C. G

Joseph C. Green

Spain

Saint-Jean-de-Luz, France, April 11, 1938.

Dear Mr. President:

The other day President Aguirre of the Basques sent Sr. Leizaola, his Minister of Justice, to me from Paris with the request that I transmit to you an appeal for such intercession as may be possible with General Franco, if he wins, to prevent the unnecessary persecution of the Basques and the threatened destruction of their culture which has survived the Roman, Visigothic and Moorish invasions. I am sending this appeal through the Secretary of State and am writing you personally lest in some manner the letter does not reach you. It is beautifully done and you will want it for your personal files.

My heart bleeds for this fine and lovely people - a much finer and nobler people by the way than the Austrians. Sr. Leizaola, who called, is typical. He is

a

The President,

The White House.

a leading lawyer, a devout Catholic, a great patriot, and his conduct on the eve of the capture of Bilbao challenges comparison with anything in history. He maintained law and order throughout the long period of the war. Once only a mob, maddened by the needless slaughter by a bombing from the air, committed outrages one night. When defeat was inevitable and everyone was leaving, and being urged to leave, this man remained, to prevent, at the risk of his life, any senseless act of terrorism. He ordered the bridges blown up as a military measure, but prevented the destruction of all other property. He ordered the release of the three thousand prisoners. It was because he feared that in the bitterness of the moment the people might fall upon these prisoners and destroy them that he remained at his post with the enemy, that would have shot him without ceremony had they caught him, at the very outskirts of the city. Correspondents, notably that of the London Times, begged him to leave while there was time. He refused to do so until the safety of these prisoners was assured. When they marched out into the highway and a crowd collected, Leizaola went in person, placed himself between the prisoners and the crowd, and told the latter that

that the prisoners had been ordered released by him and must not be molested, that the Basque name was bright and must not be tarnished. He saved them. Then just as the Italians swept into the city, Leizaola drove out of Bilbao.

He typifies the spirit of the people, deserted by the world, and worthy of better treatment.

He assumed that your plan for political refugees included the Spanish, though he was thinking of the Basques. I am not at all clear on that point. There are elements in Spain, as elsewhere, we do not want, but the Basques, law-abiding, resourceful, industrious, clean-living, the very cream of Spain, would make perfect citizens. It is a point which you may wish to consider.

I wonder if you still think that Chamberlain, whose conduct is the most dishonorable and treacherous, anti-democratic and deceptive in the history of England for a century, has consolidated his position. With whom? With Mussolini - yes; with Hitler - yes; with the Tory party majority in the Commons thinking solely in terms of "the City" - yes. But since you wrote there have been two by-elections in which the issue was Chamberlain's foreign policy and big Tory majorities of two years ago were wiped out and handsome majorities rolled up for the Opposition.

The

The British Government would not dare face a general election on Chamberlain's foreign policy. When the day after Mussolini made his speech to the Italian Senate boasting in detail of the movements of the Italian army in Spain, and Chamberlain replied to the question as to whether he would call this public proclamation of an aggressive war against Spain to the attention of the droll "Non-Intervention" Committee, with the utterly idiotic statement that "we hear all sorts of things and we have no evidence", he plumbed the depths of hypocrisy and the garden variety of dishonesty. I am having none of Mr. Chamberlain.

I am concerned over Joe Guffy's break with his Committee in Pennsylvania. I am fond of Joe and I have had no great admiration for Earle, but I am worried over Joe's decision to oppose Earle's candidacy for the Senate. Joe may win - if the miners stand pat. But he has invited a supreme test.

I have letters from Indianians in whose judgment I have confidence - people once very intimate with Van Nuys - and they all agree that Fred has made an ass of himself. They say this with evident regret. One cites his attack on Jim Farley - something I did not know before. I am
 against

against anyone who is against Jim. One thinks that should Fred run independent he would assure the election of Watson, but the other says he will not poll a corporal's guard and will not effect the result. This man says he cannot understand why McNutt, with the votes to elect any Democrat, should have selected Jackson who is certainly light weight.

It is inevitable, I think, that we shall lose some in the House and I am convinced that the too heavy majority has been our tragedy. There is more party loyalty when the vote in the House is closer.

Last night I was rereading Junius' letter to the King, apropos of the Wilkes' controversy, and I found a sentence you ought to store away, touching on the court controversy. He was contending that the Lords could not constitutionally pass on the rights of the Commons and thus:-
 "Or will you refer it to the Judges? They have often told your ancestors that the law of parliament is above them.
 What party then remains, but to leave it to the people to determine for themselves?"

I certainly shall make the speeches in the fall.

It looks very bad for the Government here now that

everyone

everyone has agreed that it is quite permissible for Italy and Germany to send artillery and planes to the Fascists, and quite intolerable for anyone to sell arms and ammunition to the constitutional Government to defend itself against invasion. But my impression is that the loyalists will fight on. What a people! The only people in the world in these days of Fascist triumph and bullying who have the spirit and the guts to stand up and fight and die for liberty and democracy. Just now they are literally fighting for democracy against the entire world, and I believe they will fight on to the end. In all the tide of times there has never been anything in the struggles for liberty that is in the same class with the fight these people are making.

Sincerely yours,

Claude G. Bowers

American Ambassador



EMBASSY OF THE
UNITED STATES OF AMERICA

PSF: 8/2/38
H
P
EU

No. 1499

Saint-Jean-de-Luz, France, May 9, 1938.

Subject: Conversation with Sr. Del Vayo in Paris
and Complete Report of Movements of
Ships in Loyalist Ports.

DIVISION OF
EUROPEAN AFFAIRS
MAY 20 1938
DEPARTMENT OF STATE

Very Confidential for the Secretary and Under-Secretary.

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OFFICE OF
COMMUNICATIONS
AND RECORDS

SECRETARY OF STATE
MAY 19 1938
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UNDER SECRETARY OF STATE
MAY 19 1938
MR. WELLES

852.00/7931

The Honorable
The Secretary of State,
Washington, D.C.

Sir:

I have the honor to report that on Thursday evening a message from Sr. Del Vayo, Minister of Foreign Affairs, was transmitted to me from Paris requesting me to see him in that city through which he was passing on his way to Geneva. The explanation was made that he had something he wished transmitted to Washington. I arranged to see him at a small hotel on the Left Bank to avoid publicity and I was able to go and return without the knowledge of the press.

The Minister had observed in the press a statement
ascribed

Confidential File GE

ascribed to President Roosevelt to the effect that even though the Spanish Government had its right under international law to buy arms and ammunition restored, it would bring no results because of the inability of ships to get to Loyalist ports. He immediately ordered prepared the very full report on every ship that has entered every Loyalist port over a period of months in refutation of that false assumption. These reports bearing the stamp of the Foreign Office I transmit herewith as part of this despatch. The Minister particularly requested that the State Department permit the President to see these reports.

I found Sr. Del Vayo, whose personal friendship I had before he took office, in a militant and optimistic mood, confident of the ultimate victory of the Government. He had dined the night before with Daladier and from him he learned that Colonel Maurel, the French Military Attaché who has just concluded an inspection of the Spanish military situation, had reported that the Loyalists were in excellent position and condition and that there is no possibility of a collapse.

Taking advantage of our pre-official relationship, I felt free to ask him bluntly anything I wished to know, and I am sure he responded as unconventionally because of some admissions he would not want known generally. The most important of these was that the recent easy march to the sea of the forces of Franco and his German, Italian and Moorish allies, was not due, as generally supposed, to the great number of German and Italian planes, but to "the treachery of two of the commanding officers". These men were of the regular army and had not been suspected.

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I asked him about the possibility of the capture of Barcelona, and he said it was impossible. I then told him I had not had much faith in the Catalans who had done so little to assist the Government in the war. He replied: "That has all changed in recent months. The slaughter by the German and Italian bombers has finally aroused the fighting spirit. The stupid declaration of Franco that when he takes Catalonia he will deprive the Catalans of all their autonomous rights, wipe out their special culture, and outlaw their language, has had a tremendous effect. But, strangely enough, nothing has done so much to arouse the Catalans as the execution by Franco of Carrasco Formiguera, the most famous Catholic writer among the Catalans, for whom all the people had a great affection. The week after his execution, after he had been in prison for eight months, ten priests called at the Foreign Office and tendered their services. They were put to work outside the firing line."

I then asked him about the Syndicalists in whose loyalty to the Government I had had no faith.

"You are right about the past," he said. "For more than a year they were obstructionists, defeatists, everything bad. But they are now militantly loyal."

I ventured in this connection to ask him about the present attitude of Largo Caballero, knowing of Del Vayo's former intimacy with him. He said that he was not only causing no trouble but that he is now being used effectively in the unification of all the forces hostile to Fascism.

I then asked about Prieto.

"I just saw him this morning. He did Herculean work. He created the army. He worked incessantly and for some years he has been troubled with a heart ailment. While everything was moving on triumphantly, Prieto lived and worked on his nerve. But the treachery of two commanding officers making possible the break through to the sea completely crushed his spirit. He denied that he felt crushed but it was too clear. And he was sick. He needed a rest and we could not entrust the defence to a sick man. We asked him to remain in the Government as Minister without portfolio but he wanted to remain as Minister of Defence. There was no trouble. His own friends thought he should rest. He told me this morning that he is now ready to return in any capacity."

I asked him if the army in Catalonia is composed entirely of the new Catalan recruits. He astonished me by saying that the greater part of the best forces that have defended Madrid are now in Catalonia, including all of the International Brigade which still lives. He said Barcelona will be

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I then asked him if this weakening of the defence of Madrid may not result in the loss of that city. He said that General Miaja has been intensively engaged for more than a year in creating a new army for the defence of the capital; that this new army has been trained under the old; and that there is no possibility of Madrid being taken.

I asked him how many of the International Brigade remain. He said that these soldiers had stood the brunt of the fighting and that the losses among them have been heavy. There were 12,000, but today there are no more than 6,000. And he added that the Americans are the best fighters among them.

II

I asked him about planes. He said that until very recently the Loyalists had been in a serious way. At the time the world press reported that 135 Loyalist planes had made a demonstration over Barcelona he said that every available plane, even some commercial planes, were used for the purpose of encouraging the people. Since then, however, 250 good planes have come in. But these, he added, are mostly fighting planes and the Government is badly in need of bombing planes. He estimated that Franco has as many as 800 German and Italian planes. These German planes fly over France.

I then asked him what impression he had received from Daladier. He said that the night before he had told Daladier that an actual immediate closing of the French frontier against material for the constitutional Government would be locked

upon

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upon by every loyal Spaniard as an act of war; that while Spain is not in position to do anything about it, the effect would reach into future generations, and a hatred of France would become ingrained. He said Daladier had confided to him that, in London, Chamberlain and Halifax had vehemently urged the French to actively interest themselves in excluding war material from the Spanish Government, and that he, Daladier, had reacted as vehemently against it.

I then asked him about the agreement to close the frontiers after the commission entered Spain to determine the number of foreign fighters. That, he replied, would be some months ahead. "There must be an agreement first from both sides in Spain. We shall insist on the most rigid exclusion of war material by sea from Italy and Germany. The manner of exclusion will be debatable for many weeks. And we shall insist on some control of the air to stop the sending in of planes from Germany over French territory. During all these weeks the French frontiers will not be actually closed. And during that time we shall get all we need."

I asked what the effect of a German war of aggression against Czechoslovakia would be. "It would speedily end the war in Spain with a Government victory," he replied. "Without the German officers and war material we would win soon."

III

In this connection, he asked me if we actually thought in the United States that the result of the war in Spain would have no effect on our problems in South and Central America. He said that should the Fascists win in Spain it would give a tremendous

tremendous impetus to the Fascist conspiracy in South America which is aimed at the United States and its influence, and that a victory for democracy in Spain would naturally have the opposite effect. With this point of view I am entirely in agreement.

IV

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He appeared to think that most of the Franco sentiment in the United States is due to the very active work of the Catholic Hierarchy there. He said that the excesses of uncontrollables in the first months of the war had convinced many in other countries that a Government victory would mean the exclusion or persecution of the Church. He said that on the contrary there would be absolute religious freedom as in the peace days of the Republic; that there would be a separation of Church and State, and that the Church would have to render unto Caesar the things that are Caesar's and that the State will render unto God the things that are God's. And that, he said, is precisely what Franco's Falangists put forth as their program - which is true.

"Mass is celebrated in Loyalist territory and in many places in Barcelona and Ministers of the Government attend," he went on. "As a matter of fact, the Government is planning as soon as possible publicly to reopen the Cathedral in Barcelona. It was the subject of a long session of the Council of Ministers and every Minister favored the reopening of the Cathedral with one exception. This one man thought it best to wait a while. Negrín himself wants to reopen the Cathedral but he fears that in a city of almost two million people, now, a handful of rowdies might cause an incident which would be played up in the foreign press

press out of all proportion and thus do more harm than good. But you may say to your Government that the Republic is determined on religious freedom and that there will be no persecution of any church or sect because of their religious views."

I then inquired whether the Government was having any trouble in maintaining law and order, and his reply was startling to me in its frankness.

"We are having no trouble, we have had none for sixteen months, and we are determined that law and order shall be enforced. I will tell you of one exception which is not known to the press. After the cruel slaughter in the bombing of Barcelona, some of Franco's Fifth Column emerged and tried to create turmoil. One morning twenty-one dead bodies were found - all shot. The secret service was put to work and we found that ten Loyalists, including one very high grade military officer who had rendered great service, had been responsible. And we found that the men shot were Fascists and traitors. But Negrín and the Government took the position that while these Fascists and traitors deserved shooting they should have been tried legally and executed by the Government; and that private executions were intolerable. The fate of the ten private executioners was discussed in a Council of Ministers and despite the affection Negrín and others had for the officer among them, it was unanimously agreed that the prevention of a recurrence of such a crime necessitated the most drastic action. The ten were executed. But that one incident is the only one in many months."

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Sr. Del Vayo is an able man and a man of great force of character. He seemed to talk during the full hour he was with me in my room without much reservation, and in replying to questions there was no hesitation. Because of his confidential admission that treachery was involved in the march of the rebels to the sea, and his admission that twenty-one Fascists had been privately executed, I am convinced that he talked with remarkable frankness.

The impression put out by Fascist propoganda that the Loyalist ports cannot be entered is utterly false, and the full report covering the ports of Barcelona, Valencia, Alicante, Tarragona, and Almeria through the months of December, January, February, March and April bears this out.

4 Carbon Copies

Received

WVM

Respectfully yours,

Claude G. Bowers

Claude G. Bowers

Enclosure:
Report

800
CGB:DD

THE WHITE HOUSE
WASHINGTON

UNDER SECRETARY OF STATE
MAY 18 1938
MRS WELLES

May 18,

MEMORANDUM FOR

THE UNDER SECRETARY OF STATE

Will you speak to me about
this at your convenience?

*Confidential
Personal*

F. D. R.

PSF: Spain

Saint Jean de Luz, May 9, 1938

Dear Mr. President:

Sr. Del Vayo, Minister of Foreign Affairs, asked me to see him in Paris on his way to Geneva to receive from his hands for transmission to you a complete chart of shipping entering loyalist ports during the last four months. He had heard that you had the impression that these ports were closed by the rebels, the Germans and the Italians. I know him well and was able to question him with the utmost freedom and I hope you will read my despatch which goes in this pouch, and also my despatch in this pouch setting forth the contents of a despatch to Lord Halifax and a private letter of the utmost frankness to Sir Robert Vansittart from Mr. Thompson who is in charge of the British Embassy here. He called after asking for an appointment and to my surprise passed over to me for my information both the despatch and the letter. I was able to avoid all publicity in Paris by going to a small hotel on the Left Bank and receiving Del Vayo there.

The issue is clear as crystal now in Spain - fascism vs. democracy, legality vs. force. I am firmly convinced that the

The President,

result

The White House,

Washington, D. C.

result of the war will have a very great effect in South and Central America where Hitler and Mussolini are so actively and arrogantly engaged in propagandizing against democracy and incidentally against American influence. If fascism wins in Spain it will mean a tremendous impetus to fascism in South America; and if democracy wins in Spain it will be a cold shower on fascism there. I am inclosing copies of the two despatches but you will have to send to the Department for the very remarkable chart prepared for your information.

You will have observed that the fourth by-election in England has resulted in the overthrow of a Tory majority and the election of a Laborite and that the foreign policy of Chamberlain was the sole issue in each election. It is as impressive as the primary result in Florida - only in Florida you won. I rather shudder over the possibilities in Pennsylvania. I have not heard you boasting any about your prowess as a fisherman on your recent trip, but hope it is modesty and not a crushed hope.

Sincerely,

Edward G. Bower

American Ambassador

Enclosures:

- No. 1. Despatch No. 1498,
May 9, 1938
- No. 2. Despatch No. 1499,
May 9, 1938

No. 1499

Saint-Jean-de-Luz, France, May 9, 1938.

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and Complete Report of Movements of
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Taking advantage of our pre-official relationship, I felt free to ask him bluntly anything I wished to know, and I am sure he responded as unconventionally because of some admissions he would not want known generally. The most important of these was that the recent easy march to the sea of the forces of Franco and his German, Italian and Moorish allies, was not due, as generally supposed, to the great number of German and Italian planes, but to "the treachery of two of the commanding officers". These men were of the regular army and had not been suspected.

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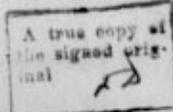
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Respectfully yours,

Claude G. Bowers

Enclosure:
Report

800
CGB:DD



No. 1498

Saint-Jean-de-Luz, France, May 9, 1938.

Subject: A British Embassy Despatch to Lord
Halifax and a Personal Letter to Sir
Robert Vansittart.

Confidential for the Secre-
tary and Under-Secretary.

The Honorable

The Secretary of State,
Washington, D.C.

Sir:

I have the honor to report that since writing my despatch No. 1498 of May 5, 1938, I have had a visit from Mr. Thompson, First Secretary and in charge of the British Embassy here, who permitted me to read a long despatch just sent to Lord Halifax and a very frank personal letter to his friend, Sir Robert Vansittart.

The despatch set forth in some detail the observations of Thompson on his recent tour of inspection in Franco territory and on his recent trip along the northern frontier as far as Perpignan where he met Mr. Leach, the British
Charge

Chargé at Barcelona.

He evidently was much depressed by what he saw in Franco territory. He found the attitude of the rebels toward England almost militantly hostile and offensive. He himself was treated with marked discourtesy and he encountered great difficulty in getting oil and gasoline for his car. In hotels he was forced to accept second class accommodations since the best was always reserved for German and Italian officers, particularly the former.

He advised the Foreign Office that in his opinion the realities of the situation do not harmonize with the theory that after the war is over the German and Italian influence will speedily disappear and, because of a desire for English money, England will resume her pre-war status. He says there is more danger from the Germans than from the Italians for the following reasons:

1. They are better organizers than the Italians.
2. They are as much respected by the Francoists as the Italians are despised.
3. They have seized on the things they want and they dominate at Huelva, the seat of the Rio Tinto mines, at Bilbao, the center of the iron ore country, and they are practically in absolute control along the northern frontier, both economically and in a military sense, where they are building elaborately for war purposes, particularly for war from the air.

He reports that both at Bilbao and Santander, German ships enter constantly, loading and unloading at night and without any pretense at inspection by the Spanish authorities.

He

He found the intolerance of the rebels incredible and cited the experience of Mr. Innes, one of his staff, who is refused admittance to Franco territory because his mother, a Spaniard dead eighteen years, was a Basque and favorable to Basque autonomy.

He compares the attitude, the policy, the principles of the Francoists and the Loyalists decidedly in favor of the latter.

He reports that Leach, long notoriously and offensively pro-Franco, has completely changed as a result of his negotiations with both sides regarding exchanges, and that he is now pro-Loyalist.

He illustrates the impudence of the Francoists thus: The British were able through the Government in Barcelona to arrange for the release of about thirty prisoners, all of the aristocracy. They were taken to the British Embassy and an attempt was made to arrange their exchange. The Spanish Government was willing. The Francoists laughed at the British and said that since their own people were safe in the British Embassy, the Francoists had nothing to gain by an exchange since the British would have to keep them and feed them.

The personal letter to Vansittart, addressed to "Dear Van", amazed me because of the utter frankness and the pronounced pro-Loyalist sentiments. I suggested to Thompson that he might get himself in trouble by his frankness. He amazed me by saying that Sir Robert Vansittart is in complete sympathy with his views. And Sir Robert is generally conceded to be the ablest and wisest man in Whitehall.

In his letter to Vansittart, Thompson said it was a delicate matter for the Government to so strongly reassure the

English

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ms/2

English public regarding Gibraltar since powerful guns were placed in Spain facing Gibraltar on one side, and others were placed in the mountains behind Ceuta facing it from the other. He thought it possible that these guns could reduce Gibraltar to a state of helplessness in twenty-four hours.

Mr. Thompson was in charge of Abyssinian affairs throughout that controversy and was closely identified with both Vansittart and Eden.

I would impress upon you the importance of keeping this despatch and letter sacredly confidential within the Department. During the Ambassadorship of Sir George Grahame, to whom Sir Henry Chilton mentally measured about to the ankles - and Sir George was very tall - I was completely in his confidence and saw many of his despatches which was an advantage. I do not want Thompson embarrassed by his confidence to me.

Respectfully yours,

Claude G. Bowers

800
CGB:DD

A true copy of
the signed original
12

PCP. Spain

August 31, 1938.

Dear Claude:-

Your resume of the present situation and outlook is most helpful and checks with what I get by sifting other sources. I do wish that our British friends would see the situation as it seems to be -- but, as you know, they are doing everything to stall off controversy and possible war until at least 1940. It is amazing and sad to note that so many small nations have lost their confidence in England during the past two or three years.

I am particularly interested in what you say about the situation in rebel territory.

Perhaps a little later on -- if the Czech situation does not end disastrously -- I can make some kind of a move for the purpose of at least aiding in ending the Spanish War.

We are having real cat and dog fights in primaries, as you know, but the net result will be all to the good even if liberal candidates are beaten by the "old timers" -- for we liberals will prove that we are not going to let things go by default either this year or later on.

My best wishes to you,

As ever yours,

Honorable Claude G. Bowers,
American Embassy,
Saint-Jean-de-Luz.

Saint-Jean-de-Luz, France, August 18, 1938.

My dear Mr. President:

Congratulations on your sweep across the country. The none too friendly enemy does not seem happy about it. Joe Guffey and his sisters recently came down here for a two days' visit and I heard much of the gossip. It seems that Joe has not come out so badly after all. Bernie Baruch wrote me from Vichy that he was coming here to see me, but soon afterwards I noticed he had gone to Brussels by plane to bow over a King's hand. Pooh, I could have given him the Grand Duke Boris of Russia. I am easily reconciled to Van Nuy's renomination because of the worse men trotted out against him. One thing is clear as crystal - we shall win a great majority of the seats in the House again - perhaps
too

The President,

The White House.

too many - again.

I have recently been busy acting as intermediary for an exchange of prisoners and for the first time since the war began I have brought the two parties to an agreement. Fourteen Americans are involved, and this week Negrin sent me word he would exchange sixty-six Italians for the sixty-six remaining Americans. I shall feel out the Marquis de Rialp, Franco's commissioner, when he comes in this week.

On July 4th I saw Del Vayo in Paris - running in and out without being caught by the press and seeing him in my hotel. I have covered the object of his conversation in a despatch. He was anxious that you should know about the disposition of the Government, and the unanimous vote of the Ministers that you name the Commission, with absolute power. Now that we have entered the third year of the war, you should have a resumé of the present situation and outlook.

(1) There has been a radical, almost sensational change in the military prospects in the last three months. The loyalist army, green, inexperienced, untrained to discipline or in tactics, has, after two years of fighting, become

become an army of veterans. While it probably has fewer first class officers than Franco, it has developed, Napoleon-wise, a surprising number of young officers of great skill and audacity; and in General Miaja and General Rojas it has officers as clever and resourceful as the best that Franco has. The three offensives recently launched by the loyalist on the Ebro, the Segre, and north of Teruel, have completely flabbergasted the rebels and hopelessly disorganized their plans. When Franco began his attempt to take Sagunto they were positive the war would be over by September. That was absurd to me. Then they advanced the date to October when days passed without Franco advancing a yard, despite his enormous advantage in German and Italian planes, tanks and artillery. The offensives on the Ebro, the Segre and above Teruel completely ended the Franco offensive against Sagunto. That was the purpose. Del Vayo explained the loyalist strategy to me two months before this began. The theory is that so long as the Government is refused its right under international law to buy planes, tanks and artillery, and so long as Mussolini and Hitler are permitted without a real protest from any quarter to send in planes, tanks, artillery and men, the Government must fight defensively and wear the enemy down.

General

down. Now it is admitted by Franco's men with whom I talk that there is no expectation of an end to the war this coming winter.

(2) And if it continues so long it is a question whether Franco can maintain control in his territory. His forces are composed of the most incongruous, incompatible and irreconcilable elements, but, while the Falangists (Fascists) and Requetés (Carlists) have fought in the streets from time to time for more than a year, the bitter factional feuds have been kept under cover, - all agreeing that it is necessary to bury their differences until they have won. But when Franco began his march to the sea it was assumed, not only by Mussolini and Chamberlain when they based their tricky Anglo-Italian understanding on that assumption, but by the rebels generally that the war would be over the moment the sea was reached. Then each faction, determined that its ideas and policies and leaders shall take control, concluded it was time to assert itself and be on top and in possession when the victory came. Thus this hitherto hidden feeling emerged into the light, and once out, it is impossible to drive it to cover again. During the time when it still was thought that on reaching the sea the loyalists would quit, the animosities of the divergent Franco forces reached white heat.

General

General Yague's amazing speech was one result; the prison break at Pamplona made possible only by treachery among Franco's followers, was another; the arrest of two members of Franco's Grand Council, caught trying to organize the officers against Franco's domination, was another.

Another source of constant anxiety is the increasingly bitter hostility between the Germans and Italians, and between both of these and the Franco Spaniards. Not for two months or more have I talked to a Franco man from across the border who has not been open, bitter, in his comments on the arrogance and pretensions of the foreigners. The supercilious manner in which the dandified Italian officers presume to look down on the Spaniards, one of whom is worth ten Italians in the field, has made the latter hated and there are frequently brushes. The fact that both the Germans and Italians are acting like burglars in a house, feverishly robbing the Spanish mines and sending the product to Italy and Germany - mostly the latter, has made them hateful. It is literally true that when, as often happens, the Italians are put to rout by the Spaniards on the loyalist side, Franco's own Spanish officers are open in their jubilation. It is feared that the alliance cannot withstand the jars of another year.

- (3) There is another development that is causing grave misgivings

misgivings in rebel territory. The rebellion was launched, as I wrote you in the beginning, by the army, which wanted to dictate; by the monarchists who wanted the King back; by the nobility and moneyed aristocracy that wanted to retain their 16th century privileges; by the big industrialists who wanted to end all attempts to lift the status of labor; by the great landowners, who wanted to hold on to every inch of their vast domains; by the Church that wanted to regain its status as political dictator of the 16th century.

Now had the war ended in a month, as expected, all these privileged forces would have got what they started the war to get. But months have passed, and now two years, and Franco has been forced to conscript for the greater part of his army peasants and artisans from the lower middle class or lower class who at heart are republicans, whose views more nearly coincide with Azaña's than Franco's. These are now the fighting force of Franco, numerically overshadowing all the rest of Franco's Spanish soldiers.

And these have made it clear - they did in Yague's speech - that if they win they will demand land through the breaking up of the vast estates; that Big Business will be under the dictatorial control of the State as to profits

profits and the treatment of the workers; that they do not care a tinker's damn about the King; that the privileges of the nobility and aristocracy must go; and that the Church must stay out of politics and business.

This is a complete negation of everything for which the war was started. It is the old story of the revolution devouring its children; the old story of the rebellion growing into a Revolution. And so the Right wing Franco people are becoming more bitter against the Left wing than against the constitutional, legal Government of Spain. The effect of their depression and fears remains to be seen.

(4) The effect of the withdrawal of all foreigners would so clearly be disastrous to Franco that I have no faith in its being carried out. Franco simply cannot carry on without his 100,000 Italians and Germans and their planes, tanks, artillery. I have yet to talk with a single man of Franco's who does not laugh heartily over the absurdity of withdrawal.

There is just one ground for hope. Italy is suffering tremendous losses; Germany, staying away from the front line, is doing the work of engineers, strategists, technicians, artillerymen, and is suffering but very little in the loss of men. Italy has been getting little to

compensate

compensate for her sacrifices of men; and Germany, sacrificing scarcely any men, is busy day and night taking all the economic cream. Mussolini is bitter about Austria; his financial and economic condition is grave; his army in Spain is the laughing stock of all the war correspondents and of the Spaniards, and his prestige is at stake. There is a faint possibility that he may take advantage of an opportunity to withdraw as a simulated concession to the Non-Intervention joke, thus saving his face, and giving Hitler a slap. Were he more statesman and less bluffer and braggart he would avail himself of this opportunity, but I doubt if his inflamed ego will permit.

(5) The one way to bring this criminal war to an end is to restore to the legal, constitutional, democratic Government of the Spanish people its right under international law to buy arms for its defence. Its infantry is better than Franco's; the valor of its soldiers, man for man, is greater; but the civilized world permits the rebels to get all the planes, tanks, and artillery it wants, while combining all its resources to prevent the democratic Government to buy what it has a right to buy under international law. My fixed opinion is that the thoroughly dishonest "Non-Intervention" scheme is

responsible

9.

responsible for the prolongation of the war and that it is pretty thoroughly caked with human blood - mostly the blood of women and children.

We Americans seem loth to do much for Spanish children. Can it be the fact that Spain has not repudiated any American debt has lost it our admiration and respect?

Regards and best wishes.

Sincerely,

Claude H. Powers

American Ambassador

in from Italy and Germany; it was understood that high officers of the General staffs of both these countries came to Spain to organize if not direct the offensive. The plan was to take Sagunto and then, with an open road to Valencia, hurry on to the conquest of that city. The date actually was set at Burgos for the taking of Sagunto - July 18. The expectations of Franco were that he would encounter but little opposition, or only such as easily could be overcome, in the march on Sagunto. Nothing in the war has caused more astonishment than the stern and stubborn resistance of the loyalist during this attempt. Advances were made by the insurgents at a very heavy cost, and these advances were inconsequential. At times days of bitter fighting failed to advance the insurgents a single inch. Still it was assumed that at whatever cost Sagunto would be taken.

Then came the remarkable action of the loyalist army in crossing the Ebro at night, at first actually in row boats, and later on pontoon bridges, breaking through the insurgent defenses at eleven points, on a ninety mile front, with a sweep up to within the shadow of Gandesa. No more daring and brilliant performance has been seen on either side since the war began.

This made it necessary for Franco utterly to abandon his well laid plans for the taking of Sagunto in mid-July and of Valencia by mid-September. With a loyalist army in his rear, he has found it necessary to concentrate entirely on driving it back across the Ebro. I know that in the beginning he had no doubt of his ability speedily to drive the loyalists back. He sent enormous reinforcements for
the

the purpose; he concentrated his aviation, his heavy artillery on the attack. Judging from the reports of our Military Attache and from what I heard from Francoists I personally had little doubt that Franco would succeed very quickly.

Then came the second sensational development of the war -- the really miraculous resistance of the loyalist army which despite its disadvantage in aviation and artillery -- for it was unable under constant bombing operations to get much of its heavier artillery across the river -- not only held, but administered greater punishment to the insurgents than they have ever had before.

At least seven weeks ago it was admitted among Francoists with whom I talked that Franco's prestige had suffered as a result of the Ebro fight and that he simply would have to drive the loyalists back regardless of the cost. To this end, more arms and ammunition poured into Spain from Italy and Germany, and more Italian soldiers appeared, and all were hurried to the Ebro front. In the first battle in which the last contingent of Italians participated the losses among them were greater than any the Italians have suffered in any other fight.

The London Times, which is pro-Franco, reflecting as it does the policy of Mr. Chamberlain, reported on September 28th that Franco's sixth great offensive has failed and that there is little of importance happening on the Ebro front. In plain language, there seems to be a military deadlock.

More and more during the last six weeks I have heard from ardent Francoists, intimately identified with the Franco movement,

ment, that a decisive military victory no longer seems possible, and the previous talk of two years of a "knockout blow" is seldom heard any more.

II

The Department has heard from our representatives in Barcelona, and from the Military Attache that there is great war-weariness among the civilian population and a willingness to have the war ended regardless of which side wins. I am convinced that the latter part of this report is based on conversations with people who have been with Franco from the beginning. I do not believe that many civilians in loyalist territory are now indifferent to the loss of the Republic and the substitution of a Fascist state. That war-weariness exists I have no doubt. It exists in all wars.

But it is not wise to predicate on this the assumption that this means a collapse of morale behind the lines making for the collapse of the loyalist cause. I can say with all emphasis, as a result of my many conversations with important Franco leaders as well as with scores of his supporters, that the same war-weariness exists in Franco territory behind the lines, and the expression of a desire for peace on the basis of some compromise is common-place.

The war-weariness on one side is offset by the same war-weariness on the other; and if there are those who speak hopefully of compromise on one side, the same is true on the other.

III

The one great advantage of Franco lies in the food
question.

The wheat and grain section of Spain generally is in his territory. There are no great cities. There are comparatively few industrial workers. But in loyalist territory the food problem is much more serious because:

1. It is the industrial rather than the agricultural section.
2. It contains the large centers of population such as Madrid, Barcelona, and Valencia.
3. There are almost three million, 3,000,000, refugees, a large part women, children and old men, who had fled to the centers of population from territory conquered by Franco in the past.

In both loyalist and rebel territory the stores, other than food stores, are depleted, and in rebel territory I understand it is more difficult to buy articles of clothing, etc., than in loyalist territory, because the larger stores of the greater cities had much greater stocks.

Even in rebel territory the food question is now noticeable, and meat is rationed.

I am convinced, however, that the gravest threat to the loyalist comes from the food problem. However the morale of the underfed remains unshaken according to all reports reaching me. Colonel Behn of the Telephone Company recently in Madrid tells me that the people there are cheerful and give their "poverty parties" with great glee.

IV

The most significant and important development in Spain comes from Dr. Negrin's voluntary offer to send out of the country all foreigners fighting with the loyalist army. This
he

he can well afford to do, since there are less than 10,000. These can be withdrawn without effecting the fighting quality of the army.

It is most significant that while Dr. Negrin's announcement was enthusiastically cheered by the League of Nations to which it was made, the nations, such as Portugal, supporting Franco, immediately intervened in an effort to prevent the League from supervising the withdrawals on the ground that this should be done by the Non-Intervention Committee. It seems a bit ironical that this Committee, pretending for more than two years to be striving to get the foreigners out, should appear so blasé over a voluntary offer. It has shown remarkable restraint in expressing its pleasure - worthy of the best "public school tradition." But this will not interfere with the plan of the Spanish Government to send all foreigners away and the Council of the League has announced that it will send a commission.

The very clever action of Negrin has proved a great embarrassment to General Franco for several reasons:

1. It proves conclusively which side is most dependant on foreign aid.
 2. It will explode the propaganda about the large number of Russians with the loyalists.
 3. It cannot be matched by Franco since, unlike the Government, he is dependant on the foreign allies from Italy and Germany. I have talked to his men in official positions and all scout the idea indignantly of sending away his foreign soldiers.
 4. With the dismissal of the foreigners in the loyalist army the pretence that the war in Spain is a purely civil war
- is

is also exploded, and it becomes rather openly a war of aggression against Spain on the part of the Germans and Italians.

V.

It is reported, though not from sources of which absolute reliance can be placed, that Mussolini in resentment of Franco's announcement that he would be neutral in the threatened war, proposes to recall his troops from Spain. It is a reasonable resentment. And aside from that the feeling in Italy of hostility to the slaughter and waste from Italian participation in the Spanish war is reported to be rapidly increasing. My information is not official, but I get this from our courier who goes to Italy, from newspapermen recently there, and from the President of the International Security Corporation recently in Rome.

Because he had participated so brazenly in the war it has been assumed that Mussolini could not without loss of prestige withdraw his troops without a Franco victory. The declaration of Franco that in a war in which Italy was to have been involved, he wished to remain neutral, has given Mussolini a way out without loss of face or prestige. He can do it with a flourish.

I am afraid Mussolini will not take this way out. If he does, and the Spanish war becomes actually a civil war it will be over within a reasonable length of time.

Respectfully yours,

Claude G. Bowers

800
COB:RL

A true copy of
the signed original
of

Spain

Felt personal

Saint Jean-de-Luz, France, October 3, 1938

My dear Mr. President:

I enclose a despatch that may interest you. I have just returned from a "thanksgiving service" in the English church here - a thanksgiving for the greatest diplomatic triumph in generations of the Dictators over Democracy in Europe; a thanksgiving for the rape and rending of a gallant little nation, shamelessly deserted by its pretended friends who were bound to it by the ties of honor that Mr. Chamberlain has outmoded. I felt a sense of shame in participating in this mockery of thanksgiving, but the minister is a sweet old man and he personally invited me or I shall have been "ill." I had a letter today from a distinguished Englishman, long in the highest rank of the British diplomatic service and a close friend of mine,

reading:

The President,
The White House,
Washington, D. C.

reading: "I hear that Neville had his choice between war and dishonor and damn near chose both."

Mr. Chamberlain and Mussolini and Hitler now have their Four Power Pact, just as Castlereagh, Tallyrand and Metternich had their Holy Alliance to sit on the liberties of Europe and to crush liberalism everywhere. But the splendid little Czech nation is ruined on the demands, not of Mussolini and Hitler, but of Chamberlain, supported by his "yes man" Daladier. And France today takes her place among the second class nations. I wonder what the French think now of Chamberlain's and Hitler's agreement that England and Germany never, never will fight one another. France has lost her allies with her honor. The Czechs are gone; Russia surely will go; and nations like Roumania and Jugo-Slavia can have no confidence in a French alliance. I am glad Duff Cooper resigned in protest. What an impressive list of outstanding English statesmen, including those of the Tory party who have divorced themselves from the plan of Chamberlain and the Clevedon Set to betray every democracy but their own -- Lord Cecil, Anthony Eden, Winston Churchill, Lloyd George, Sinclair, and Atlee.

I am naturally much interested in what you say about

Spain

Spain and its war. I think you should know that the rebels, held to a standstill and unable to move, and torn by increasingly bitter internal dissensions, now pin their faith on the capacity of Chamberlain to use the new Holy Alliance to deliver to Franco the victory for fascism that he could not win in arms. We will not, I know, be a party to any such betrayal. The one Democracy in Europe that has fought and died for democracy is that of Spain and it is not the part of other democracies to deliver the victory over the dead bodies of those who have fallen in the fight to their, and our, enemies. If you conclude later on that something may be accomplished to end the Spanish war without sacrificing the Democracy of Spain I shall want to submit some suggestions. If it becomes apparent that a military victory is impossible, and I hear this now frequently from Franco men, a negotiated peace may be possible a little later.

The voluntary action of Dr. Negrin in sending all foreigners in the loyalist army out under the supervision of an International Commission named by the League of Nations, was a brilliant stroke. There are less than ten thousand. Franco dare not do the same, and won't. It means that the war henceforth will be one of the Spanish Republic against the rebels and the foreign

invaders

invaders from Italy and Germany. It will also explode the propaganda about the "hordes of Russians." There never have been more than 600 of these, and I am willing to wager that the International Commission will have to report no more than 400 Russians, if that many.

Recently I ran over to Paris to spend the day with Barkley, Bob Wagner and Joe Guffey. Bob looked very tired, and seemed disillusioned about his old cronies, Smith and Foley. He met them in the Constitutional Convention! He said he had seen you one week before to the day and that you looked as though you never had a trial, and that you were in fine fighting fettle. I think you are right about the primaries. A beginning must be made. The seed must be sown. Ammunition must be furnished. The issue must be defined. That you have done regardless of the momentary advantage.

I was at a party at the country house of Captain Hamilton, a retired British army officer, near Biarritz, the night of the day your second cable to Hitler was sent. Most of the many guests were British and I think every man and woman came to me to express enthusiastic praise of your action. "He is the first man in the world who has had the courage to get down to cases with Hitler," several said. The next day I had fourteen at
lunch

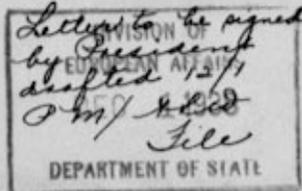
lunch, mostly of the Diplomatic Corps, and your cable was the chief topic of conversation, and the reaction was the same as at Hamilton's party. Congratulations!

Sincerely yours,

Claude G. Bowers

Claude G. Bowers

Enclosure



Hotel Miramar
Saint-Jean-de-Luz, France, November 17, 1938.

Dear Mr. President:

Am a bit amused by your "defeat" which leaves us with a meagre majority of more than eighty-five in the House and a greater part of the Senate! Two things, - three - impressed me. The Democratic victory in California which ends the infamy of the criminal persecution of Tom Mooney; the elimination of the Bonny Lad with the Bar Room Manner, O'Connor; and the defeat of my friend Frank Murphy, partly because of the pro-fascist congressional committee busy with the red herring of communism to distract attention from the Fascist World Revolution which has been on since 1935.

But my purpose in writing is to convey a message to
you

The President,
The White House.

you from the Spanish Government. On the telegraphic request of Del Vayo, the Minister of State, I met Sr. Azcarate, the Spanish Ambassador to England, in Paris on Sunday. He is a high grade man of long experience, having served for some years with the League at Geneva. The message in substance was this:

1. The Government is entirely satisfied with the military situation. It now concededly has the best infantry. It is producing pursuit planes but not bombing planes. The best Franco can hope for is to get back to where he was in July last by forcing the loyalist army back on the Ebro with his new divisions of the Italian army, and his new flock of Italian and German bombers recently sent in in accordance with "the spirit of Munich" which, in the classic language of the impossible Chamberlain, "has brought peace in our time" - particularly to the Jews in Germany.

2. But the Government is gravely concerned about the 3,000,000 men, women and children refugees from Franco territory and from the small towns of the Mediterranean coast that have been wiped out by Italian bombers. The problem of their preservation from starvation is serious enough. The Government had anticipated all this for the
winter

winter and had, it thought, made adequate provision, but its calculations did not contemplate the daily bombing of British food ships with the complete acquiescence of the Chamberlain Government.

3. These facts are not propaganda facts. They are recognized. The League of Nations sent a commission to investigate and its report leaves no possible doubt that the need is imperative and the call to humanity strong. It is probable that the League may send another commission to act with means and food.

4. This brings us to the point where you are involved. It is the hope of the Spanish Government that the United States may do its part, just as it did for the Belgians, the Germans, the Russians and the French.

Should the League name a Relief Commission, the Spanish Government would like to propose that the chairman should be an American appointed by you.

Should we not wish to associate ourselves with any League commission, and should we act independently, the Spanish Government will ask that an all-American commission be named to take charge of relief in which we are involved; and with the stipulation that there shall be absolutely no interference of any sort from the Government in Spain.

This

This is the message I was asked to convey to you.

I do not know what Congress may be inclined to do regarding a reasonable appropriation. I earnestly hope, however, that we shall want to do our part. Since the Spanish Government takes the position that it is the legitimate government of all Spain, and since it is interested in the food needs on both sides, and would expect to have whatever is given used anywhere in proportion to the need, I cannot see that our neutrality would be involved.

I know, positively know, where the sympathy of anyone who believes in liberty and democracy must be. Never such a clear-cut issue between fascism and democracy, between legality and anarchy as in Spain. Of course, I do not expect the fascist Powers that are specializing every day in the murdering and mangling of women and children in peaceful villages by bombing from the air, to understand any humane instinct. But I am not so fearful as Mr. Chamberlain about "irritating Mr. Hitler". Good God that a British Premier should have said that!

I sympathize with the Austrians, though they surrendered their arms without a gesture of resistance; and with the Czechs, though they surrendered without firing a shot; but sympathizing with them I must to an infinitely greater degree sympathize with the Democracy of Spain which for almost

two years and a half, single handed and alone, has fought the battle against fascism, with Hitler and Mussolini pouring in troops, planes, tanks, artillery, with the Moors "taking no prisoners", and, alas, with the Democracies of Europe concentrating on preventing the constitutional, legal Government from buying arms and ammunition for the defence of the democratic cause while rather shamelessly turning a blind eye to the constant importations to Franco of Italian and German war material and men lest they "irritate Mr. Hitler", and disturb the "peace in our time" so intelligently assured at Munich.

We have rigidly enforced the neutrality act against the Spanish Government. That does not mean, however, that we owe nothing to humanity. We were neutral in the World War when we acted in Belgium. I hope we shall do our part in Spain.

Since this was not a casual conversation with Azcarate, I would appreciate confidentially your reaction to the whole thing. Whatever that reaction may be need not be passed on to anyone, but it will give me guide posts in my future contacts with the Government.

I talked in Paris with some of the keenest observers professionally of the European scene and was astonished to find that most of them think that there was no probability

of

of war, and that the Chamberlain Government whipped the people into a state of hysteria with constant radio talks on gas masks, bomb proof shelter, and the need of sending children from their parents for the purpose of reconciling them to the abject surrender of Munich. It seems too fantastic; and yet I submit that never in history before has any Government facing war thought it wise to drive the people into a frenzy of terror. The utter demoralization of the English at a critical moment calling for calm courage and dignity was unquestionably the work of the Chamberlain group.

I hope Chamberlain does not accompany the King and Queen to America. It would be a pity to thus smear their visit. For Chamberlain is despised by millions in the United States. Champ Clark once told me that when Balfour went to Washington and addressed the House, he, Clark, was almost thrown off his balance just at the moment he was about to present the former Secretary for Ireland, because John J. Fitzgerald whispered loud enough to be heard: "Champ, don't forget and introduce him as Bloody Balfour".

I shall get a copy of the League of Nations' Report on the refugees and send it on.

Sincerely yours,

Claude G. Bowers

American Ambassador

December 2, 1938.

My dear Mr. President:

While your memorandum of November 28, enclosing for my information a letter dated November 17 which you had received from Ambassador Bowers, merely asked that I read the letter and speak to you about it upon your return to Washington, I have drafted a suggested reply for you to send to Ambassador Bowers, which I am submitting herewith for your consideration.

Norman Davis has been consulted on the general situation including the connection of the Red Cross with possible future enlargement of our relief efforts, and the draft I am sending to you represents his views as well as my own. If the suggested letter is not satisfactory to you, please let me know.

Believe me

Faithfully yours,

SUMNER WELLES

The President,
The White House.

Dear Claude:

I have given considerable thought to the questions you raised in your letter of November 17th. I am genuinely concerned at the plight of the civilian refugees in Spain and am anxious that the United States make just as large a contribution as is possible.

As a matter of fact, a good deal has been done by the Red Cross and Government Departments working together, and if the necessary funds can be found they will do more and more as the months pass. Norman Davis tells me that the Red Cross has appropriated from its own funds to be used in connection with various phases of the Spanish struggle a total of \$175,000, which is even more per capita than it has given to China. The Government has given to the Red Cross, through the Federal Surplus Commodities Corporation, at a purely nominal figure, wheat to be converted into flour and delivered aboard ship. The Maritime Commission has been giving free of charge to the Red Cross its unused cargo space for transporting the wheat. With all these factors taken into account it still costs the Red Cross about one dollar a barrel before the wheat is in the hands of the Friends ready for distribution. In addition, the Red Cross is taking charge of a gift of coffee from Brazil and seeing that it is transported on the same basis.

An analysis of the foregoing shows that for each dollar put up by the Red Cross it is able to give nearly five dollars' worth of aid to the starving refugees in Spain. However, its own funds are limited, and the Red Cross has reached the conclusion that a special drive on its part is for various reasons impossible. It is nonetheless prepared to assist a committee organized by the Friends to help raise funds for Spanish refugee relief. It seems too bad that all agencies collecting money for Spain did not choose to pool in on this basis, as any direct contributions made through them are on the principle

that

that a dollar does a dollar's work, while via the Red Cross a dollar does nearly five dollars' work. If sufficient money can be raised the Government is still ready to give the Red Cross 500,000 bushels of wheat a month for the next six months. Transportation will be more difficult in the future as there will be less unused space on American ships, but this can be overcome by Spain sending chartered ships under foreign flags to our ports to get the wheat.

There is so much human misery and disaster in the world that it is difficult to foretell exactly what if anything Congress might be willing to do for Spain. Obviously there is fully as much suffering and misery in China, Czechoslovakia and Germany which also calls for our active help. All I can say is that what can be done, will be done.

You raised one final question in your letter, namely, the possibility of an American food dictator. On the whole I am inclined to think that for various reasons it would be a mistake for such an official to be "designated by the President of the United States." If the campaign being organized by the Friends succeeds in raising enough money for the Red Cross to keep on sending wheat in large quantities, it would almost automatically make the Friends, as the distributing agency of the Red Cross, the predominant influence in Spanish relief. If the Friends send the right man to Spain, and I am told that they are going to make the selection with the utmost care, it will make him in effect, if not in name, the food dictator you had in mind.

Very sincerely yours,

The Honorable
Claude G. Bowers,
American Ambassador,
St. Jean de Luz, France.

Spain

PSF: *Spain*
File
Private &
Confidential

Saint Jean-de-Luz, France, November 21, 1938

Dear Mr. Secretary:

Congratulations on the pact with Britain. It is a triumph for your policy and it points the civilized way to peace if the mad-dog dictators really want peace.

I note that the Department is going over the general European situation, and since the conspiracy in Spain and the absence of serious reactions against the fascist aggression, the habitual violations of international law, and the cynical repudiation of agreements, convinced the dictators that they might safely proceed with their plans in Austria and Czechoslovakia, I submit that Spain cannot be left out of consideration in the survey.

Because you must be over-whelmed with reports from all parts, and because of the appalling lying of the propagandists, it occurs to me that it may be advantageous to you to have at this juncture a statement of facts in the way of a recapitulation.

The most curious phase of the present situation is in the mysterious mission to Burgos of an all-English commission headed by Mr. Hemming, Secretary of the "Non-
Intervention"

The Honorable,
Cordell Hull,
Secretary of State,
Washington, D. C.

Intervention" Committee. It is curious because Mr. Hemming first says he does not come as the representative of the Committee. Immediately he contradicts himself by saying that his mission is to "explain" to Franco the plans of the Committee, which need no explaining, which were accepted by Barcelona and rejected by Burgos. Then again he contradicts himself by saying that he does not represent the Committee but he does represent Germany, Italy, Portugal, England and France and is presenting on their behalf a plan he wishes Franco to sign. This, it will be noted embraces the nations responsible for the Munich betrayal, with Portugal thrown in as good measure for the fascists. This Hemming Commission wraps itself in a cloak of impenetrable mystery. Hemming emerged recently and went to London; returned; and three days later flew back to London.

I know authoritatively that whatever the purpose, the Spanish Government has not been informed. It is assumed by the Government that the sole purpose is to create an excuse for not calling the Non-Intervention Committee together to pass on the Government's acceptance and Franco's rejection of the plan for the withdrawal of all foreigners.

My own impression is that the voluntary withdrawal of all foreigners from the Government side has put Mr. Chamberlain, who has consistently resorted to every device and trick to serve the fascist fight against democracy in Spain, in an embarrassing position; and that he hopes through some meaningless concession from Franco to find a hypocritical excuse for granting Franco belligerent rights - rights he has been exercising right along with general consent of the world.

Perhaps

Perhaps the real purpose of this commission will be known by the time you receive this letter.

II

In determining the significance of what is going on in Spain certain things should be kept in mind.

(1). The rebellion is not a popular movement; else with Moors, Italians, Germans, and their planes, tanks, artillery, Franco would have won more than two years ago.

(2). Franco is wholly dependent on the intervention of Germany and Italy who are waging an open war of aggression against Spain; and the Government is not dependent on foreigners, else it would not voluntarily have sent them all out under the supervision of neutral nations designated by the Council of the League of Nations by request.

(3). Since the Government regained control two years ago, through the miraculous organization of an army in the midst of confusion and chaos, the barbarous features of the war that have shocked the civilized portion of mankind have been on the part of the rebels and their allies. Thus:

(A). The bombing of undefended cities and towns and villages resulting in an appalling slaughter of women and children which continues constantly to this hour, is wholly the work of the Francoists. The latest act of frightfulness came last Saturday when they machine-gunned a passenger train killing all the passengers.

(B).

- (B). The submarine warfare against neutral ships was wholly the work of the fascists.
- (C). The attacks, the detentions, etc., of neutral ships, as in the case of our own Nantucket Chief, have been wholly on the side of the fascists.
- (D). The killing of military prisoners, which continues, is entirely the work of the fascists.
- (E). The Spanish Government proposed three months ago to ending of executions in the interest of humanity, and it suspended these executions and there have been none since; the executions have continued on the part of the fascists.
- (F). The terroristic policy of "taking people for a ride" - murdering them - which was commonplace on both sides during the first four months of the war, has entirely ended in Government Spain since then, but I am reliably informed by our own representatives and by certain American business men in Franco Spain that it continues in his territory. I have heard from several people from Bilbao and Santander that it is much worse in that respect since the rebels have taken possession than during the worse period of Governmental control. I am informed by Consul Graves that not long ago the bodies of thirty women were found in the river near Vigo.
- (G). The attitude of the two sides toward persecutions and executions is further shown in

Azana's

Azana's second anniversary speech in which he said the future of Spain depends on a policy of "peace, pardon and pity", and Franco's interview last week with a U. P. correspondent, Miller, in which he said he had a card index of "2,000,000 leaders" who would have to be punished by death or in concentration camps.

- (H). The attitude of the two sides toward the United States is one of friendship and sympathy for our policies and ideology on the Government side, and one of cynicism and hostility on the Franco side. Your speeches and those of the President are conspicuously played up in the loyalist press and either scarcely mentioned, treated with levity, or, in one or two cases, attacked, in the rebel press which is as much under the arbitrary domination of Franco as that of Italy is under Mussolini or of Germany under Hitler. These rebel papers completely reflect those of Rome and Berlin.
- (I). Most interesting, in view of the fascist and nazi movements against us in South and Central America, is the concept of the two sides of South America in its relation to them. On the Franco side an organization is being perfected composed of South and Central Americans pledged to work for fascism in their relative countries. On the Government side, as shown in the recent notable speech of Prieto, the point is made
that

that in the reconstruction of Spain she cannot count on the European nations, and that her policy should be to cultivate the best possible commercial relations with the two Americas - North and South.

I have reported and I repeat it now that no one can be in touch with the South and Central diplomats to Spain as intimately and constantly as I have been without positively knowing that a victory for Franco will have most serious repercussions in South and Central America in favor of fascism; and that the triumph of democracy in Spain will tend to chill the enthusiasm for fascism there so manifest here.

(4). The military situation is the same as it was in the middle of last June. The loyalists who crossed the Ebro in early July have, on orders from Barcelona, retired back across the Ebro since the purpose of the crossing has long been served, and it is not thought wise to sacrifice lives needlessly. The prestige of Franco was so seriously involved that during the last four months he launched seven offensives to drive them back, supported each time with new material and men from Italy and Germany. His losses have been tremendous, by admission. The retreat of the loyalists under orders was a masterful performance in which they lost not a single gun, or soldiers. There is scarcely anyone today who believes the war will end in a military victory.

(5). The hope of the rebels is that the food shortage will cause trouble behind the lines in loyalist territory and
lead

lead to a collapse. My information is that this is not probable. The hope of the loyalist side is that the increasing dissensions and revolt behind the lines in rebel territory will lead to a collapse. I do not look for this from the civilizans who know that the least whimper would mean jail or the firing squad. The seriousness of the conditions in Franco Spain is in the fact that the feuds involve the leaders, the divergent elements. I am sending in a despatch this week Gil Robles protest to General Jordana which is most significant. The fascist members of the Franco Government are notoriously most obnoxious to Franco for whom they have no respect, and to the old nobility and aristocracy and to the Church. They speak frequently. There was fighting in Burgos week before last according to the Norwegian secretary who was there. Francoists whose former enthusiasm has cooled, tell me that should Franco suffer a reverse there would be a rising against him. Many of the business element, the old aristocracy, and even of the Church have said to me that they were infinitely better off under the Republic than they will be under the system that the Falangists are cooking up for them.

(6). The religious phase has been changing for some time. The Church itself admits its alarm over the prospect of a fascist Government. The fascists have taken a position toward the Church more threatening in some ways than anything they have faced before. On the Government side there is a keen realization that the attacks on churches and priests during the first days has been its greatest handicap. There was a reason for that bitterness at that time, but it was the mobs that did the damage at a time when the Government, without

an army, was helpless. The Vatican has been invited to send a Nuncio to Barcelona to preside over the reopening of churches. Mass is said in Barcelona today. No priest has been killed in Government Spain for two years. But --

In Franco Spain sixteen Basque priests have been shot on orders.

And near Valladolid there is a concentration camp with more than one hundred Basque priests.

These are facts, condensed as much as possible, covering the whole scene that I hope may be of service.

With regards and renewed congratulations on the British pact,

Sincerely,

American Ambassador

CGB:RL

A true copy of
the signed original
inal *al*

File
Personal &
Confidential

San Juan de los Rios
Nov. 22-1938

Dear Mr. President:-

A useless copy
of a letter to Mr. Hueb reviewing
or presenting a concise survey
of the situation here which I
feel you may find interesting.
If the European Democracies
had not so complacently
acquiesced in the lawless activity
of the fascists and nazis in Spain,
there would have been no Austrian,
Czech and Jewish outrages.

Spain was the testing ground.

It now is the testing ground
for South America.

Sincerely
Claude G. Rowes

PSF: Spain



THE SECRETARY OF THE INTERIOR
WASHINGTON

November 23, 1938.

The President,

The White House.

My dear Mr. President:

You know how I feel in general about the Spanish embargo and I would not take your time, particularly in this holiday season, to argue the issue as it shapes up in my mind at this moment. But I do think that you should know about some new aspects of the problem that were brought out at a conference held in Washington during the past few days.

One striking feature of the conference was the prominent role played by Catholic lawyers, notably Frank P. Walsh, Louis F. McCabe and Dean Francis Shea (formerly our General Counsel in the PRRA). They all take the view that however the situation may have appeared at the beginning of the Spanish war, the question now is whether Hitler, by gaining mastery of Spain, will be able ultimately to dominate Latin America. They feel quite naturally that this possibility constitutes a terrific threat to the Catholics of Spain and of Latin America.

Another aspect of the Latin American situation brought out at this conference is the fact that our arms embargo against the Spanish Republic inevitably creates a doubt in Latin American governmental circles as to whether a liberal government threatened by Fascist-aided insurrection can assume that it will be accorded the right to purchase military equipment in this country for the suppression of such insurrection. It seems clear that the emissaries of Germany and Italy at Lima will play upon these doubts and will use the Spanish and Czechoslovakian situations as proof that the friendship of any democracy is worthless and that only the friendship of the totalitarian powers carries material advantages. If, at this time, we should reopen to the Spanish Republic facilities for purchasing arms, would we not go a long way toward counteracting this type of propaganda? And is not this a moment when our action in according such rights to the Spanish Republic, regardless of its direct material effect, would have a tremendous moral effect not only in Latin

America but in Europe as well? It seems to me that British and French policy is still fluid enough to be strongly influenced by the stand this country takes on the Spanish situation.

A further aspect of the situation brought out at this conference is the very significant change that has occurred since May 1, 1937, the day when the embargo proclamation now in force was promulgated. At that time there was in operation what seemed at least to be an honest effort to stop arms shipments to both sides in the Spanish war through the mechanism of a four-power naval and border patrol of Spain which, as you know, was abandoned soon after our embargo went into effect.

The legal argument as to your authority to revoke the present embargo when the conditions which led to its imposition no longer exist is developed in the petition of the Lawyers Committee which you have probably received. I am enclosing a second copy.

The matter seems so critical at this time as to deserve a place in your agenda if you plan to devote any of your time in the next week or so to the international situation. I am advised that some of the speakers at the recent conference of the Lawyers Committee on American Relations with Spain are seeking the opportunity of an audience with you. I am sure that if you are able to arrange such an interview you will find the representatives of the conference well informed and thoroughly aware of the practical as well as the legal elements in the situation.

With best wishes for a happy Thanksgiving,

Sincerely yours,

Harold T. Pehes

Secretary of the Interior.

Enclosure 691496.

DEPARTMENT OF STATE
THE SECRETARY

RSF: Spain

November 24, 1938.

MEMORANDUM FOR THE PRESIDENT

I herewith return your
Claude Bowers letter of Oc-
tober 24th. It was very in-
teresting.

[Handwritten initials]
CH

~~Very confidential~~

Saint Jean-de-Luz, France, October 24, 1938

Dear Mr. President:

I have a very confidential personal letter from
Goeffrey Thompson, which is too confidential to incorpo-
rate in a despatch, but I think you and Mr. Hull may be
interested. Thompson is one of the real experts in
the British Foreign Office. He was in charge of Abyssin-
ian affairs when they were critical. He is most intimate-
ly identified with Sir Robert Vansittert and with Anthony
Eden whom he accompanied to numerous conferences as expert
advisor. He was Charge d'Affaires here until it was
thought best by Chamberlain to substitute another who could
be counted upon, like Chilton, to send despatches of the
"right sort" and not realistic and truthful ones. I found
him prescient, penetrating, liberal and right - more so
than

The President,
The White House,
Washington, D. C.

than any other Britisher with whom I have had contacts except Sir George Grahame, the former Ambassador, now retired. The two are close friends of mine. It is so extremely rare to find a professional diplomat who is not cynical and contemptuous of democracy and popular rights that these two stand out like green spots in a desert.

The letter indicates what we all know that the reaction to reality since the Munich betrayal of democracy is one of shame and resentment. Of course the same is true in France, though here the feeling is that France has been so hopelessly betrayed that she has sunk to a Second Class Power and has no friends. I am quite prepared to see the French leaders, not one of whom in statesmanship rises to the level of mediocrity, sell out the French democracy completely.

I have foreseen the present lamentable situation and have right along predicted it as the inevitable result of the reaction of the Governments of the two Democracies to the outrageous violations of all the rules of law and justice in Spain. When some time ago I wrote you that the Dictators are using Spain as a training ground for their
armies

armies and aviators and as a testing field for their new war material you replied that "you hoped it was not so." Now no one longer doubts it. I see all the war correspondents in my home when they come out from time to time and without one exception they say this is true. They say that these people, aviators especially, are sent to Spain for three months and then sent back so others may be sent to get the training. A few thousand mangled babies does not matter - not with the Saviors of Civilization.

When here Thompson analysed Chamberlain for me. He says he gets his ideology from the City - England's Wall Street. I cannot believe he is so stupid as not to know that he is selling out Democracy in Europe. I have never been particularly fond of him because of his notorious anti-American complex. Were he an American he would elbow De Pont and Rascob from their thrones in the Liberty League.

I am also inclosing a personal letter from Del Vayo on the Spanish situation incorporated in a despatch.

No one can be close to the European situation without
realizing

realizing how eternally right you are about American armament. Hitler and Mussolini are working on South America as you know. They are now organizing a Fascist organization in Franco Spain of all South and Central Americans living in Spain that is supposed to exert itself to bring sweetness and light to our neighbors.

With regards and all good wishes,

Sincerely,

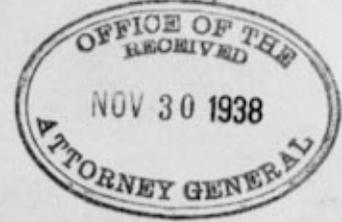
Claude G. Bowers

Claude G. Bowers

Enclosures.

I do not want any one but you and Kull to see the Thompson letter since the slightest leakage would be injurious to a man who has been helpful and who relies on my discretion.

PSF: Spain



THE WHITE HOUSE
WASHINGTON

Warm Springs, Georgia,
November 28, 1938.

Memorandum for the Attorney General:

Will you please study this Spanish Embargo situation from the legal point of view and talk to me about it when I return. No written opinion seems advisable.

Briefly, the situation is this: The Joint Resolution of Congress of January 8, 1937, found a state of civil strife existing in Spain and placed an embargo on arms, etc., and gave me authority to rescind this only if the state of civil strife which had been found to exist by the Congress would end.

in a foreign state

Then, on May 1st, the Congress passed the General Neutrality Joint Resolution, leaving it to the President to find that a state of civil strife exists, and that if it exists and is of a magnitude and conducted under such conditions that the export of arms, etc., would endanger the peace of the United States, the President shall proclaim such fact. I thereupon issued the proclamation establishing the embargo against Spain, i.e., did it the same day the resolution was passed.

The same resolution of May 1, 1937, allows the President, when in his judgment the conditions have ceased to exist, to revoke the embargo. These conditions as above pointed out are twofold: (a), A state of civil war, and (b), that it threatens or endangers the peace of the United States.

The State Department lawyers and the Secretary of State believe that if I were to revoke my proclamation of May 1st, the original prohibition of January 8th would still remain in force.

The other side claims that the resolution of May 1st cancelled out the resolution of January 8th -- and I think there is some merit to this contention. What do you think?

held down by the Congress on January 8, 1937, would still remain in force.

F.D.R.

PSF: Spain

DEPARTMENT OF STATE
WASHINGTON

November 25, 1938.

My dear Mr. President:

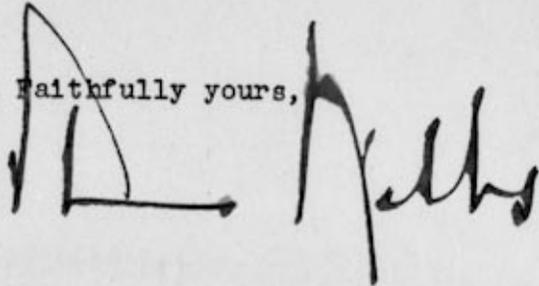
With reference to our telephone conversation of a few moments ago, I am sending you herewith for your consideration a copy of a letter sent by the Secretary of State to Mr. Raymond Leslie Buell on March 21 last. I think you will find that on page two of this letter the questions you raise are dealt with very fully. After the fullest consideration by the Secretary himself as well as by the legal advisers in the Department, it was determined that the enactment of the so-called "Neutrality Act" of May 1, 1937, under the authority of which your Proclamation of May 1, 1937 was issued, did not rescind the Joint Resolution of the Congress of January 8, 1937. Consequently, the decision was reached here that even if you were to revoke your Proclamation of May 1, 1937, the original prohibition upon the export of arms, ammunition and implements of war to Spain laid down by the Congress on January 8, 1937, would still remain in force.

The President,
The White House.

In this connection I am not sure whether the Secretary spoke to you before he left of the possibility that he might at Lima, should the sentiment be found favorable, propose an effort of mediation between the two factions in Spain on the part of all the American republics. If this idea can be carried out, the effect, it seems to me, would be favorable from every standpoint. If he did not take up this question with you, I should like to have the opportunity of doing so on the telephone the next time I speak with you.

Believe me

Faithfully yours,

A handwritten signature in cursive script, appearing to read "R. H. H. H.", written in dark ink.

Enclosure.

PSF: Spain

DEPARTMENT OF STATE
WASHINGTON

November 30, 1938.

My dear Mr. President:

I have received your memorandum of November 25th, with which was enclosed a letter addressed to you by the Secretary of the Interior on the general question of the Spanish Embargo. Immediately after you spoke to me on the telephone in regard to this matter, I drafted my letter of November 25th, which will undoubtedly have reached you before this.

The legal situation is as follows: The prohibition on the exportation of arms to Spain rests on two statutes, both of which are in effect, (a) the Joint Resolution of January 8, 1937, which, by its terms, imposed an embargo which cannot be lifted until the Joint Resolution is repealed by act of Congress or until the civil war comes to an end and the President so proclaims, and (b) the Neutrality Act of May 1, 1937, Section 1(c) of which was made applicable to Spain by your proclamation of the same date. The Secretary advised you to issue

this

The President,

The White House.

this Proclamation because it was necessary that a proclamation be issued under Section 1 of the Act in order to make applicable to Spain other provisions of the Neutrality Act (loans and credits, solicitation and collection of funds, transportation of arms on American vessels, etc., etc.) which it was clearly the intent of Congress should be made applicable to that country. This proclamation could be revoked at any time but its revocation would have no effect in respect to the exportation of arms to Spain while the civil strife continues as long as the Joint Resolution of January 8 remains in effect.

The assumption underlying the arguments in the petition enclosed with the letter addressed to you by the Secretary of the Interior, viz., that the Joint Resolution of January 8 was repealed by the passage of the Neutrality Act of May 1, is entirely without foundation. On this point, the legal officers of the Department are unanimous. I enclose for your information copies of the Department's memoranda on this subject.

In reply to your question "... just where American supplies of all kinds -- war material and otherwise -- have been going during the past two years -- how much has actually got into Franco Spain and how much has actually got into Government Spain", I may state that according to our records, no arms, ammunition or implements

of

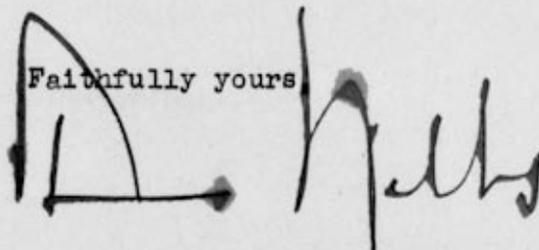
of war, as those articles are defined in your Embargo Proclamation, have been exported directly to Spain since January 8, 1937. A great many attempts have been made to export arms in violation of the law for the use of the Spanish Government. Most of these attempts have been thwarted by the Department's refusal to issue the necessary export licenses, but some arms have been successfully exported in violation of the law by means of indirect shipment. In particular, three used planes of no great military value were exported to Mexico and apparently reexported from that country to Government Spain, and engines and parts aggregating approximately 40 planes, for the construction of small military planes of an efficient type, were exported from the United States to Canada, whence they were shipped to France and ultimately to Government Spain. As far as concerns war materials other than arms, ammunition and implements of war, I may state that the records of the Department of Commerce indicate that the only war materials which have been exported to Spain in significant quantities since the beginning of the civil strife are oil products, automobiles and trucks. The Department of Commerce statistics do not, however, make any distinction in reporting exports to Spain between shipments destined

to

to areas held by the Government and those destined to areas in the hands of the Rebels. From January 1, 1937 to December 31, 1937, inclusive, oil products were exported to Spain to the value of \$3,166,188.00, and automotive products to the value of \$70,739,000.00. These figures do not include such shipments as may have been exported indirectly and reported as exports to third countries. I am informed by the Department of Commerce that similar figures for 1938 have not been tabulated and that it would take some time to tabulate them. I shall, if you desire, request that this tabulation be made.

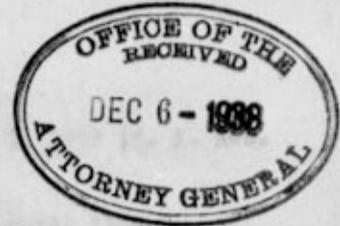
I am returning herewith Mr. Iokes' letter to you of November 23d.

Faithfully yours,

A handwritten signature in dark ink, appearing to read "R. H. Halls". The signature is written in a cursive style with a large, sweeping initial "R".

Enclosures:
Memoranda.
Letter.

Department of Justice
Washington



December 5, 1938.

MEMORANDUM FOR THE ATTORNEY GENERAL

The Spanish Embargo

Your memorandum of November 30, 1938; memorandum of November 28, 1938, to you from the President, and accompanying papers, re whether joint resolution of May 1, 1937 (50 Stat. 121), amending Neutrality Act of 1935, as amended (49 Stat. 1081, 1152) superseded joint resolution of January 8, 1937 (50 Stat. 3), placing embargo on exportation of arms to Spain.

The joint resolution of January 8, 1937 (S. J. Res. 3, Pub. Res. No. 1), reads as follows:

"That during the existence of the state of civil strife now obtaining in Spain it shall, from and after the approval of this Resolution be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to Spain or to any other foreign country for transshipment to Spain or for use of either of the opposing forces in Spain. Arms, ammunition, or implements of war, the exportation of which is prohibited by this Resolution, are those enumerated in the President's Proclamation No. 2163 of April 10, 1936.

"Licenses heretofore issued under existing law for the exportation of arms, ammunition, or implements of war to Spain shall, as to all future exportations thereunder, ipso facto be deemed to be cancelled.

"Whoever in violation of any of the provisions of this Resolution shall export, or attempt to export, or cause to be exported either directly or indirectly, arms, ammunition, or implements of war from the United States or any of its possessions, shall be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

"When in the judgment of the President the conditions described in this Resolution have ceased to exist, he shall proclaim such fact, and the provisions hereof shall thereupon cease to apply."

Similar provisions in the joint resolution of May 1, 1937 (S. J. Res. 51, Pub. Res. No. 27), read:

"Section 1. * * * (c) Whenever the President shall find that a state of civil strife exists in a foreign state and that such civil strife is of a magnitude or is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to such foreign state would threaten or endanger the peace of the United States, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to such foreign state, or to any neutral state for transshipment to, or for the use of, such foreign state.

"(d) The President shall, from time to time by proclamation, definitely enumerate the arms, ammunition, and implements of war, the export of which is prohibited by this section. The arms, ammunition, and implements of war so enumerated shall include those enumerated in the President's proclamation Numbered 2163, of April 10, 1936, but shall not include raw materials or any other articles or materials not of the same general character as those enumerated in the said proclamation, and in the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva June 17, 1925.

"(e) Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States shall be fined not more than \$10,000, or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., 1934 ed., title 22, secs. 238-245). * * *

"(g) Whenever, in the judgment of the President, the conditions, which have caused him to issue any proclamation under the authority of this section have ceased to exist, he shall revoke the same, and the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed, or forfeitures incurred, prior to such revocation."

"Sec. 5. * * * (g). Whenever the President shall have issued a proclamation under the authority of section 1 of this Act, all licenses theretofore issued under this Act shall ipso facto and immediately

upon the issuance of such proclamation, cease to grant authority to export arms * * * from any place in the United States * * * to any state wherein civil strife exists, named in such proclamation * * *."

Other pertinent provisions of the May 1 resolution are: Subsection (a) of section 1 authorizes the President to issue proclamation making unlawful exportation of arms when he finds that there exists a state of war between or among two or more foreign states. If, after proclamation under section 1, the President finds restrictions on shipment of certain articles and materials, in addition to arms and war materials, necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, he is required so to proclaim; and thereafter it becomes unlawful for any American vessel to carry such articles or materials to any belligerent state or to any state wherein civil strife exists (sec. 2 (a)). After proclamation under section 1, and further finding and proclamation by the President that restrictions on export of articles from the United States to any such state are necessary to promote the security or preserve the peace of the United States or to protect the lives or commerce of citizens of the United States, it becomes unlawful (except under limitations immaterial here) to export to any belligerent state or to any state wherein civil strife exists, named in such proclamation, any article or materials until all right, title and interest therein have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national (sec. 2 (b)).

After proclamation issued under section 1, it becomes unlawful (1) for any person within the United States to purchase, sell, or exchange bonds, securities or obligations of the government of any such state named in such proclamation; (2) for any American vessel to carry any arms or war materials to any such state; (3) for any citizen of the United States to travel on any vessel of a state named in such proclamation except in accordance with prescribed regulations; and (4) for any American vessel engaged in commerce with any such state to be armed, or to carry any armament, arms, ammunition, or implements of war, except small arms and ammunition which the President may deem necessary and designate for the preservation of discipline aboard such vessels (secs. 3, 6, 9, 10). The summarized provisions in sections 2, 3, 6, 9 and 10 are new.

The act does not apply to American republics engaged in war against non-American states, provided the American republics are not cooperating with a non-American state in such war (sec. 4). The National Munitions Control Board is established with authority to issue licenses to persons who register as required under the act. The administration of it is vested in the Department of State except as otherwise provided (sec. 5). These last three provisions are not new, the same or similar provisions having been contained in the Neutrality Act of 1935, as amended.

On the same day, May 1, 1937, that the resolution was approved by the President he issued a proclamation, numbered 2236, enumerating the arms and war materials prohibited from export to Spain. The proclamation recites:

" * * * that a state of civil strife unhappily exists in Spain and that such civil strife is of a magnitude and is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to Spain would threaten and endanger the peace of the United States."

In the joint resolution of January 8, 1937, the Congress found a state of civil strife obtaining in Spain and placed an embargo on the shipment of arms to Spain but gave the President authority to remove it when in his judgment the conditions described in the resolution ceased to exist. There is no embargo under the resolution of May 1 until certain conditions have been found and proclaimed by the President. Such conditions differ from those stated in the earlier resolution, since there must be not merely civil strife but civil strife of a magnitude or being conducted under conditions such that the export of arms would threaten or endanger the peace of the United States. The resolution also authorizes the President to remove an embargo when in his judgment the conditions previously found have ceased to exist.

The State Department is of opinion that the joint resolution, approved January 8 is still in effect because unrepealed and there exists in Spain a condition of civil strife--whether or not of a magnitude to endanger our peace--so that if the President should revoke his proclamation of May 1 the prohibition upon the export of arms laid down by the Congress in the joint resolution of January 8 would remain in effect. We have not been furnished with the reasons supporting this conclusion.

Certain members of the Bar of the several States, on the other hand, in a petition to the President of which a copy was received in this Department, take the position that the joint resolution of May 1 superseded or repealed the embargo resolution of January 8. This petition urges the President to revoke the proclamation of May 1 for reasons which briefly are: (1) the debate in the Congress established that the earlier resolution was a temporary, emergency measure to be superseded by general and more comprehensive legislation; (2) the later resolution covers the entire subject of the earlier resolution; (3) the later resolution embraces new provisions; (4) the later resolution changed the conditions under which an embargo might be imposed, by requiring that the strife be of such magnitude or conducted in such manner that the export of arms and war materials would endanger the peace of the United States; (5) civil strife in Spain is not excepted from the later resolution which applies to any foreign state except American republics; and (6) the executive construction evidenced by issuance of the proclamation of May 1 is consistent only with repeal of the earlier resolution since it would be absurd to superimpose an embargo upon an existing embargo (Petition pp. 8, 9).

The general neutrality resolution of May 1 did not expressly repeal the resolution of January 8. If it effected a repeal it did so only by implication. Repeals by implication are not favored and when there are two acts on the same subject the rule is to give effect to both if possible. There are, however, two settled categories of repeals by implication, stated by Mr. Justice Field in United States v. Tynen, 11 Wall. 88, 92:

"If the two (acts) are repugnant in any of their provisions, the latter act, without any repealing clause, operates to the extent of the repugnancy as a repeal of the first; and even where two acts are not in express terms repugnant, yet if the latter act covers the whole subject of the first, and embraces new provisions, plainly showing that it was intended as a substitute for the first act, it will operate as a repeal of that act."

Commenting on the language just quoted the Court in Posadas v. National City Bank, 296 U. S. 497, 503, pointed out that "it was not meant by (the above) statement to say, as a casual reading of it might suggest, that the mere fact that the latter act covers the whole subject and embraces new provisions demonstrates an intention completely to substitute the latter act for the first," and continued:

"This is made apparent by the decision in Henderson's Tobacco, at the same term, 11 Wall. 652, 657, where, in an opinion delivered by Mr. Justice Strong, it is said, 'But it must be observed that the doctrine (of the Tynen case) asserts no more than that the former statute is impliedly repealed, so far as the provisions of the subsequent statute are repugnant to it, or so far as the latter statute, making new provisions, is plainly intended as a substitute for it. Where the powers or directions under several acts are such as may well subsist together, an implication of repeal cannot be allowed.' (Italics are in the original.) These two cases, with others, are briefly reviewed by this Court in Red Rock v. Henry, 106 U. S. 596, 601, by Mr. Justice Woods, and the court's conclusion stated as follows:

'The result of the authorities cited is that when an affirmative statute contains no expression of a purpose to repeal a prior law, it does not repeal it unless the two acts are in irreconcilable conflict, or unless the later statute covers the whole ground occupied by the earlier and is clearly intended as a substitute for it, and the intention of the legislature to repeal must be clear and manifest.'

"The implication of which the cases speak must be a necessary implication. Wood v. United States, 16 Pet. 342, 362-363 It is not sufficient, as was said by Mr. Justice Story in that case, 'to establish that subsequent laws cover some or even all of the cases provided for by (the prior act); for they may be merely affirmative,

or cumulative, or auxiliary.' The question whether a statute is repealed by a later one containing no repealing clause, on the ground of repugnancy or substitution, is a question of legislative intent to be ascertained by the application of the accepted rules for ascertaining that intention." (504.)

In Frost v. Wenie, 157 U. S. 46, 58, the court stated:

"And where two statutes cover, in whole or in part, the same matter, and are not absolutely irreconcilable, the duty of the court--no purpose to repeal being clearly expressed or indicated--is, if possible, to give effect to both. In other words, it must not be supposed that the legislature intended by a later statute to repeal a prior one on the same subject, unless the last statute is so broad in its terms and so clear and explicit in its words as to show that it was intended to cover the whole subject, and therefore, to displace the prior statute."

See also United States v. Jackson, 302 U. S. 628, 632.

Another settled rule of statutory construction is that a later statute, general in its terms and not expressly repealing a prior special act, ordinarily will not affect the special provisions of the earlier statute. The fact that one is special and the other general creates a presumption that the special is to be considered as remaining an exception to the general. Rodgers v. United States, 185 U. S. 83, 87; Petri v. Creelman Lumber Co., 199 U. S. 487, 497; Ex Parte v. United States, 262 U. S. 420-424. The presumption against repeal is strengthened when the two acts are passed at the same session of the legislature. Graham & Foster v. Goodcell, 282 U. S. 409, 425. Notwithstanding these presumptions, however, cases have arisen in which the Supreme Court has found, under the particular facts involved, that a special statute was impliedly repealed by a later general law. Tracy v. Tuffly, 134 U. S. 206, 223; Fisk v. Henarie, 142 U. S. 459, 467; Murphy v. Utter, 186 U. S. 95, 105. And among the cases where the court has found that a later statute was intended as a substitute for an earlier one are King v. Cornell, 106, U. S. 395; District of Columbia v. Hutton, 143 U. S. 18, 26; The Paquete Habana, 175 U. S. 677, 685.

It may be contended that, when the conditions found in the proclamation of May 1 have ceased to exist, if, nevertheless, civil strife continues in Spain, the Congress intended to leave in effect the embargo of January 8, particularly since both resolutions were passed only a few months apart in the same session and the earlier was directed to a particular condition peculiar to Spain, while the latter was a general act and failed to repeal the former.

The resolution of May 1, however, does cover the whole subject of the earlier act and even embraces new provisions; so that the question is whether it plainly appears to have been intended as a substitute for the former statute. The resolution of May 1 is a comprehensive statement of the policy and purpose

of the United States to keep this country out of foreign wars and free from entanglements which might arise should our citizens be allowed to furnish arms and war materials to a foreign state wherein a state of civil strife existed, threatening or endangering the peace of the United States. Some of the provisions in the act are new and they provoked much discussion in the Congress. The act, as has been indicated, applies to all foreign states, except American republics. Hence it is applicable to Spain and was so construed by the issuance of the proclamation of May 1. Therefore, it may be argued that the first act is not an exception to the second.

Furthermore, each act carries as a penalty a fine of not more than \$10,000 or imprisonment for not more than five years, or both, for violation of its export provisions. Proclamation No. 2163 of April 10, 1936, made applicable by the resolution of January 8, 1937, contained six categories of arms. The items in those categories were also included in Proclamation No. 2236 of May 1 issued pursuant to section 1 of the resolution of the same date. Thus it follows that if the resolution of January 8 is still in effect, a shipment at this time--the proclamation of May 1 being likewise in effect--of arms covered by each resolution would subject the offender to the punishment covered in each act. And certainly, it is incongruous that one shipping to Spain aircraft, dismantled, should be subject to fine and imprisonment under each act, whereas, one shipping to Spain aircraft, unassembled, should be in violation only of the resolution of May 1, the former item having been listed in both proclamations, and the latter in only the second. Many other items, not listed in Proclamation No. 2163 referred to in the first resolution also were added to the list of articles enumerated in the proclamation of May 1 under the second resolution. Moreover, unlike the first, the second resolution also subjects the property, vessel or vehicle containing the prohibited articles to seizure and forfeiture, in the case of violation of the embargo provisions.

It is also to be noted that a proclamation issued under the authority of section 1 of the resolution of May 1, 1937, cannot include raw materials or other articles not of the same general character as those enumerated in Proclamation No. 2163 of April 10, 1936, and in the Convention signed at Geneva June 17, 1925. It is significant that Proclamation No. 2163 was expressly superseded by a proclamation issued May 1, 1937, pursuant to the authority conferred on the President by section 5 of the joint resolution approved May 1, 1937 (Proclamation No. 2237, Fed. Reg. v. 2, pp. 925, 926). The arms and war materials listed in this proclamation are the same as those enumerated in the other proclamation of May 1, 1937, relating to Spain (No. 2236). It seems doubtful that the effect of the issuance of Proclamation No. 2237 should be to amend the joint resolution of January 8, 1937, by substituting for "Proclamation No. 2163 of April 10, 1936" the words "Proclamation No. 2237 of May 1, 1937." The joint resolution of January 8, 1937, was not expressly amended or repealed and if resort may be had to it, the effective proclamation would be No. 2163, although that proclamation since has been superseded.

It seems to me that the penalties prescribed in section 1 (e) of the resolution of May 1, 1937, were intended not as additions or supplements to those in the former resolution but rather to cover the whole subject. Also, in view of the attention given to section 1 (d) permitting the addition of prohibited arms and requiring the exclusion of other materials, it appears unlikely that it was intended, in the event of the revocation of the proclamation approved May 1, 1937, with the continuance of civil strife in Spain, to revert to an embargo list presumably deemed outmoded and, indeed, since superseded by Executive action.

The fact that Spain was not excepted from the resolution of May 1, 1937, and that an exception was made in the case of American republics is not significant. The latter exception was a reenactment of a provision in the former neutrality law, which was, for obvious reasons, continued in force. The sixth point, supra, page 4, advanced by the members of the Bar in their petition to the President is not controlling. It can be urged that the proclamation of May 1, 1937, was necessary to enable the United States to take advantage of the new provisions such as the prohibition on the sale or purchase of securities, the travel of Americans on belligerent vessels, the arming of American merchantmen, etc., and also that the prohibition against the exportation of arms applied only while the conditions to which that proclamation referred existed and the proclamation remained unrevoked. There is, though, the difficulty in the application of the penalties in each act against the unlawful exportation of arms, to which I have referred.

I think that the legislative history of the joint resolution of January 8, 1937, supports the statement of the lawyers in their petition to the President that this resolution was intended to be an emergency measure and does indicate an intention to take up later the subject of a general neutrality law. The history of the second resolution, however, is very unsatisfactory as respects the subject under consideration. The committee reports make no mention of Spain or the earlier resolution. The debates in the Congress are of almost no assistance. It is clear that the few members who referred to Spain, with the possible exception of Senator Pittman, assumed that the second resolution applied to Spain. While its effect upon the earlier resolution does not appear expressly to have been considered, it seems clear that the Congress at the time the second resolution was under consideration had in mind the conditions then obtaining in Spain and that the embargo imposed by its former resolution was in effect. At least some of the members understood that the proposed second resolution contemplated Spain as among foreign nations that might be subjected to embargo under it. The failure, therefore, of the Congress to repeal the former resolution lends support to the view that it was not intended to do so. Relevant extracts from the debates in the Congress on the respective resolutions are annexed as appendices A and B.

In the Third Session of the 75th Congress, Senator Nye introduced a resolution, S. J. Res. 288, to repeal the resolution of January 8, 1937, and authorizing the President, under certain conditions, to raise the embargo against the Government of Spain (Cong. Rec. v. 83, Part 6, p. 6030, May 2, 1938). The Secretary of State made public his letter of May 13, 1938, to Senator Pittman, advising that he would not feel justified in recommending affirmative action on the resolution under consideration. No further action on this resolution appears to have been taken by the Congress. In any event it is to be remembered that "whether a statute was repealed by a later one is a judicial, not a legislative question." United States v. Claflin, 97 U. S. 546, 549.

The State Department heretofore has publicly taken the position that the joint resolution approved January 8, 1937, is still in effect. Since writing the foregoing I have received from you certain additional documents, among which was a copy of an unsigned memorandum of March 31, 1938, apparently prepared by the Legal Adviser of the Department of State. The argument therein to the effect that the two joint resolutions are not clearly inconsistent and that the history of the second discloses no purpose to repeal the former has been treated above. As to the suggestion that the joint resolution of May 1, 1937, specifically amended the joint resolution approved August 31, 1935, as amended, (the general neutrality law), and failed to mention the resolution of January 8, 1937, it seems doubtful that these circumstances lend much weight to the proposition that the failure to repeal an earlier statute on the same subject indicates an intention not to repeal it.

In conclusion, I consider too categorical the statement in the letter of November 30, 1938, from the State Department to the President, that the assumption "that the Joint Resolution of January 8 was repealed by the passage of the Neutrality Act of May 1, is entirely without foundation." While there is no question that the State Department's position can be supported by strong argument in view of the legislative history and the canons of statutory construction to which adersion has been made, the President is quite correct in stating in his memorandum of November 28 to you that there is merit in the contention that the second resolution cancelled the first. I have endeavored to indicate and shall not repeat the arguments that can be adduced in support of that view.

Application of the ordinary legal rules for statutory interpretation leads perhaps most easily to the conclusion that the second resolution did not repeal the first. But when the result is viewed, if not in itself absurd it is at least fraught with considerable absurdity. "All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression or an absurd consequence. It will always, therefore, be presumed that the legislature intended exceptions to its language which would avoid results of this

of November 30, 1938, and therefore I am retaining the photostats for my file.

Respectfully,

Colin K. Bell
COLIN K. BELL,
Assistant Solicitor General.

also - The Secretary of State's letter of May 13, 1938, to Senator Pittman, advising that he would not feel justified in recommending affirmative action on the resolution under consideration.

character." Holy Trinity Church v. United States, 143 U. S. 457, 461. The question is whether the absurdity is within the requirement that has been laid down that it "must be so gross as to shock the general moral or common sense." Crooks v. Harrelson, 282 U. S. 55, 60.

No-one, in my opinion, can prognosticate with confidence what would be the conclusion of the courts on the question under the particular circumstances upon which it might be presented to them for decision. While I realize that repeals by implication are not favored, that if possible, effect will be given to both acts involved, that the burden of sustaining an implied repeal is heavy, particularly where the first statute is special and the second general, etc., my intuition persists in asserting that the Congress in fact deemed at the time that it was substituting the second resolution to cover the whole field broadly so that the first was superseded. Conceivably courts sometimes may have intuitions that mold their logic.

Of course, as you know, serious questions of policy are involved. If the President finds that conditions have changed since his proclamation of May 1, 1937, which justify lifting of the embargo imposed by it, he may remove the embargo by proclamation. No doubt there would be protest from some sources in this country on the ground that so far from justifying that course conditions have become worse; but the judgment of the President controls. Should he so find and proclaim, the difficulty then of a court finding that an embargo still continued by virtue of the first resolution would be enhanced; because it is hardly reasonable that where it has been determined that civil strife has not the effect on the United States contemplated in the second resolution that country nevertheless should embargo shipments because of that civil strife. Another consequence of such action by the President probably would be to force the Congress either definitely and promptly to repeal its first resolution or to reenact it or to enact other legislation in relation to its second resolution.

I have adverted to the question of policy only as it seems to bear on the legal issues. No doubt the position of the State Department was advisedly assumed and, as I have indicated, there is ample legal argument to support it. Should the President lift the embargo by proclamation under the second resolution on a finding of changed conditions, the State Department would of course be afforded opportunity to bring its position with respect to the first resolution into coordination with the ends sought by the President. While some embarrassment might be unavoidable, because the State Department's position is publicly known, this consideration may be relatively unimportant.

I am returning herewith the papers forwarded with your memorandum of December 5, 1938, together with photostatic copies for your use. You will remember that the original documents are to be returned to the President. I have also retained photostatic copies of these papers for my file. I assume that you have the originals of the photostatic copies forwarded with your memorandum of November 30, 1938, and therefore I am retaining the photostats for my file.

Respectfully,

Golden W. Bell
GOLDEN W. BELL,
Assistant Solicitor General.

Also - If the Embargo should be lifted by a new Proclamation - howd it be possible to secure Embargo under the Act of Jan 37 x (3)

APPENDIX A

Legislative History of the Joint Resolution Approved January 8, 1937, Pub. Res. No. 1, S.J. Res. 3 (50 Stat.

3) Prohibiting the Exportation of Arms, etc., to Spain.

S. J. Resolution 3 was introduced in the Senate and in the House on January 6, 1937, and was passed by both Houses on that date. The joint resolution was not referred to any committee and hence there are no committee reports. During the debate in the Senate on the joint resolution the following remarks were made by Senator Pittman, Chairman of the Committee on Foreign Relations, and other senators.

"MR. CONNALLY. Does the joint resolution mention Spain, or just describe a condition that fits the situation in Spain?

"MR. PITTMAN. It mentions Spain alone, and the reason for that determination, after consultation, to mention Spain alone was that we know exactly the conditions existing in Spain, and that such conditions of internal warfare necessitate an embargo on the export of arms, ammunition, and implements of war.

"The question as to whether the term 'civil war' applies or does not apply need not be determined. It would possibly be far more difficult to describe conditions generally that might arise in the future in a foreign country that would justify a similar embargo, and therefore we hesitated to make the resolution general. When I say 'we', I refer to the President of the United States, to Representative McREYNOLDS, to R. Walton Moore, Assistant and Acting Secretary of State, and to the legal branch of the Department of State. * * *

"The reason for presenting this matter as one of emergency is that our neutrality law has been held to apply only to a war between two foreign countries, and not to internal strife, not to a civil war. The legal branch of the State Department in honesty has so held, and two licenses have been granted to export airplanes and airplane parts to Spain. I do not know to which force they are going, nor am I aware that anyone else knows. It is known that the consignee is in Spain and he may be 'John Doe.' The granting of the first license was sufficiently disturbing but another application was made on yesterday, and, as a result of the defect in our law, the license had to be granted, and over \$4,000,000 worth of war materials, not alone airplanes but arms and ammunition and implements of war, have been authorized to be exported to parties in Spain. Whether those parties represent the insurgents or whether they represent the Government of Spain we cannot determine. * * *

"MR. CLARK.***I should like to ask the Senator from Nevada whether in his opinion there would be any more difficulty, in the face of the present emergency, in passing a joint resolution amending the present law by a simple provision making the existing neutrality law apply to situations in which war exists within a nation, if the President finds such to be the fact, than to pass a joint resolution such as that the Senator now desires to have acted on?

"MR. PITTMAN. I may say to the Senator that I originally advocated what he has just suggested.

"MR. CLARK. I understand the Senator did so.

"MR. PITTMAN. I could not see why that course should not be taken. But certain information has come from various Senators, and from certain Representatives particularly, indicating that they do not desire to have the subject of the general law opened up at this time. We will take that matter up tomorrow in connection with the consideration of the general law. * * *

"Mr. President, I desire to do what the Senator wishes to have done, but it was the thought by those considering this draft that there were some Senators who would rather limit the measure to one nation than have it apply to all the nations of the world, and I yielded." (Cong. Rec. v. 81, part 1, pp. 74-75.)

"MR. NYE. Mr. President, I should like to ask the Senator from Nevada a question. He does not mean, does he, that he has abandoned entirely the hope of being able to arrive at language which will enable us to define when a situation exists which we want to meet by a general program?

"MR. PITTMAN. I hope not, but I would not trust my own ability to do so. I may say to the Senator that it will undoubtedly follow that there will be many amendments offered to the existing neutrality law, all of which will be referred, I imagine, to the Committee on Foreign Relations, upon which the Senator sits. So we will have the advantage not only of his great ability and constructive power but possibly that of 20 other United States Senators who have long been engaged in this work, some of them as long as I have and some of them longer. That is what I want. We do know the situation in Spain, but what exact conditions in another case would justify this act I do not know. I hope that somebody may find out." (id. 78.)

The resolution was passed by a vote of 81 yeas and 0 nays (id. 80).

In the House the following discussion occurred.

"MR. LANHAM. The present neutrality law will expire by its terms before this session of Congress will have adjourned. It is natural to assume that during this session we shall have general neutrality legislation upon which there will be adequate opportunity for debate and for amendment. My understanding is that the purpose of this resolution is not the enactment of general neutrality legislation but merely to correct a defect which has arisen through world circumstances that make an amendment to the present temporary neutrality law necessary, which still leaves it necessary for us later to enact general neutrality legislation. Is not that correct?

"MR. McREYNOLDS. (Chairman of the Committee on Foreign Affairs.) The gentleman is correct. The present neutrality law expires May 1, but the present law does not cover this civil war. * * *

** * * We are now working on a general neutrality law which will come before this House and which will cover any condition of civil warfare in any country when it is brought to the House; and as far as I am concerned gentlemen may have all the time in the world to debate it. At this time, this is an emergency. These shipments are being made, and what we are trying to do now is to stop the shipment by this special act. That is the reason I am asking for this special consideration. I was advised by a Senator a few minutes ago that that body would pass this resolution this afternoon. * * *

"MR. HILL of Washington. I am in hearty sympathy with this kind of legislation, but why not make it general? May I ask the gentleman from Tennessee, if there were a revolution in England today, would he introduce this resolution?

"MR. McREYNOLDS. I surely would, if it were a civil war.

"MR. HILL of Washington. Against the present government in England?

"MR. McREYNOLDS. If I had my way about it, it would cover every country, and I expect to offer an amendment to the bill when it comes before this House later, covering any civil war. * * *

"MR. MAVERICK. The gentleman said when this comes up on the floor later he is willing for an amendment to be added which will make it apply to all countries. I am willing for it to apply to all countries now. Is the gentleman not willing to let this be considered for amendment, so that we can apply it to the British Empire and the German Fascist Government, and every other country? I say this because I hope we stop

arms shipments to every country.

"MR. McREYNOLDS. May I say to the gentleman there is no country where this could apply soon? This is an emergency, and for that reason we are asking that it apply only to Spain.

"Within the next 2 or 3 weeks a general neutrality bill will be presented to the House in which there will be provision applying to civil war in any country and giving the President power to stop the shipment of armaments to those countries. * * *

"MR. JOHNSON of Texas. Mr. Speaker, there should be no difference of opinion about the necessity for the immediate adoption of this resolution. It is a resolution not designed to enact general neutrality legislation, that being a matter which will shortly be considered in this House, because the present neutrality law under its own terms will expire on May 1, and the Foreign Affairs Committee of the House will soon begin hearings upon a new bill, which will be promptly reported to the House, and this body will then have opportunity to consider fully and fairly a permanent measure with respect to neutrality. * * *

"This is a specific resolution dealing with a specific situation in Spain, about which there should be no difference of opinion. There is not a condition existing in the world at this time comparable with the condition existing in Spain, and we cannot pass any legislation that will affect any other country as it would Spain, because the conditions there are entirely different from those prevailing in any other part of the world." (id. 87-90.)

The joint resolution was passed by a vote of 411 yeas and 1 nay.

The following additional remarks were made in the Senate:

"MR. THOMAS of Utah. Take, for example, the strength of the mandatory act. We saw what happened last summer. The President had no real power, according to the strict interpretation of the wording of our act, to put an embargo on the shipment of goods to Spain, because the act did not cover civil war. The weakness of the mandatory provision was shown right there. It was necessary for us to enact a mandatory embargo covering a particular country. If what the newspapers said is true, the President, or that branch of the Government which administered the measure, had used persuasive powers and found them of no avail; so the theory of the people and the feeling of the people and the feeling of the Government itself was that this law should be extended to cover civil war. We know by the passage of the Arms Embargo Act of 1923 (the Arms Embargo Act was first

APPENDIX B

Legislative History of the Joint Resolution Approved May 1,
1937, Amending the Neutrality Act of 1935, as amended,
Pub. Res. No. 27, S.J. Res. 51, (50 Stat. 121)

The following committee reports were submitted. Senate Report No. 118, February 23, 1937; House Report No. 363 part I, March 9, 1937, part II, March 10, 1937, and Conference Report April 28, 1937. None of these reports throws any light on the question whether the Congress intended this joint resolution to supersede or repeal the joint resolution of January 8, 1937.

Senator Pittman in explaining the extension of the neutrality act to cover a case of civil strife stated:

"The resolution extends the embargo act to foreign states wherein civil strife exists of such a magnitude or conducted in such manner that the export of arms, ammunition, and implements of war to such states would endanger our peace. It is not intended that such embargo should be applied to foreign states wherein there is insurrection or strife of an insignificant character. The strife must be of such magnitude or conducted in such a manner that the export of arms, ammunition, or implements of war from our country to such foreign state will endanger the peace of the United States; and the President must find such facts to exist, and so proclaim, before such provisions with regard to such state in which civil strife exists go into effect.

"I need not argue to the Senate the necessity of vesting such authority in the President. We have already considered and enacted a similar measure with regard to the unfortunate civil strife existing in the state of Spain. Finally, all the major powers have followed our example with regard to such strife in Spain." (Cong. Rec. v. 81, pt. II, p. 1667.)

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recommended, I believe, as early as 1925. I think we acted on it in 1935. I care not which date you use) that the theory of the people supported this course, yet because of the mandatory provision it was impossible for the President to act." (id. 1733.)

"MR. WHITE. Mr. President, the text of the joint resolution prohibits, in the event of civil strife, any person within the United States purchasing, selling or exchanging bonds, securities or other obligations of the government of the country wherein the civil strife is proceeding. It seems to me we ought to go beyond that and prevent a citizen of the United States making advances of any character to any faction or group of citizens taking part in the civil strife.

"Specifically, and for illustration, let us take the case of Spain. The Government of Spain, I take it, is confined to a narrow area. The joint resolution as it now reads would prohibit this character of aid to that Government, but it would not prevent any citizen or any interest in the United States advancing loans of any character or in any amount to the other faction engaged in the civil strife in Spain. I think that in order to accomplish what we desire to accomplish--that is, avoid trouble to ourselves from internal conflicts--the prohibition should be enlarged." (id. 1804-1805.)

In the House the following discussion occurred.

"MR. O'CONNOR of New York. It should also be borne in mind that the legislation before us is not temporary. It does not merely amend or extend the existing temporary resolution of neutrality which expires on May 1 of this year. Under the joint resolution, which we shall presently consider, the country would adopt a permanent policy of 'neutrality', not knowing what situations may arise in the future. This consideration involves the question whether what we now do here shall be of a temporary or a permanent nature. Would it be better to extend the existing legislation?" (id. 2150-2151.)

Mr. Bernard offered an amendment to strike out subsection (c) authorizing the President to issue a proclamation when he finds a state of civil strife exists in a foreign state and that such armed conflict is of such magnitude, etc. He stated:

"We are faced today, Mr. Chairman, with a situation of great importance, and we must give due consideration to this proposal, because this clause will of necessity place an embargo on any other democratic nation which may be faced with a similar situation." (id. pt. III, 2381.)

"MR. JOHNSON of Texas. The gentleman from Minnesota (Mr. Bernard) objects today to the bill under consideration for the reason that he thinks it is legislation inclined to help one of the factions in the Spanish contest. It was not so intended and it will not so do. This provision simply adds to the temporary neutrality law which we now have by also providing that it shall apply when there is a state of civil strife existing in a foreign country which is of such magnitude or which is carried on under such circumstances that it may involve the peace of the United States, that the same law that prohibits the exportation of arms, ammunition, and implements of war to belligerent nations shall also be applied against the factions in this civil strife. * * *

"Mr. Chairman, the war that is going on in Spain has illustrated the necessity for this legislation. When we passed the temporary neutrality law we did not realize that any civil war might assume such magnitude that it would be necessary for us to prohibit the exportation of arms, but the warfare going on in Spain has now reached that proportion where it is not local, where it is not national, but where it is international. The nations of the earth are involved and the peace of the world is threatened by that warfare. By the passage of this resolution we do not say that we think that those who are loyal to the Spanish Government are right or that those who are opposing the Government are right. We say to both factions, as we say in this bill with reference to all belligerent nations, that we will not ship arms, ammunition, or implements of war to either faction." (id. pt. III, 2382.)

"MR. COFFEE of Washington.***Are we going to say we will stand aside and permit the forces of dictatorship Italy and dictatorship Germany to enter Spain and tear it asunder? If we are going to allow that to continue, how long will it be before all of the democracies in the civilized world will find themselves confronted by these invaders? * * *

"MR. ALLEN of Pennsylvania. If the gentleman from Washington feels so strongly about this matter, why did he not vote against the embargo on arms to Spain 2 months ago when the gentleman had a chance to do so?

"MR. COFFEE of Washington. There were a great many of us who voted one way on that resolution, laboring under a misapprehension as to the purpose for which the resolution was sought. There were a great many of us who would have voted the other way had we understood fully the provisions. Also, we were assured by the chairman of the committee there would shortly be a

neutrality bill which would take care of the situation." (id. pt. III, 2384.)

During the consideration by the Senate of the conference report, Senator Nye inquired whether the provision of section 3 (a) of the joint resolution would put a stop to or interfere with sending medical aid to either faction engaged in the Spanish conflict. In reference to this subject Senator Pittman stated:

"If they were going to military forces, they would be forbidden. I think the whole policy of our legislation with regard to Spain, as an example, is to keep out of the fight over there, and to show no preference for either side." (id. pt. IV, 3953.)

Senator Nye introduced into the record a number of telegrams received by him from persons protesting section 3 of the joint resolution. Many of these telegrams refer particularly to Spain. (id. 3958-3959.)

RSF Spain

*file
Confidential*



DEPARTMENT OF STATE
WASHINGTON

December 7, 1938.

My dear Mr. President:

The Spanish Ambassador gave me this afternoon a map, which I enclose herewith, for my confidential information. I believe it will be of interest to you. It shows the establishment of nineteen German and Italian bases in the Basque provinces of Spain and indicates the exact distances from these bases to strategic points in France. The Ambassador emphasized that the French Government has not permitted this information to be made public in France.

Believe me

Faithfully yours,

Enclosure:

Map.

The President,

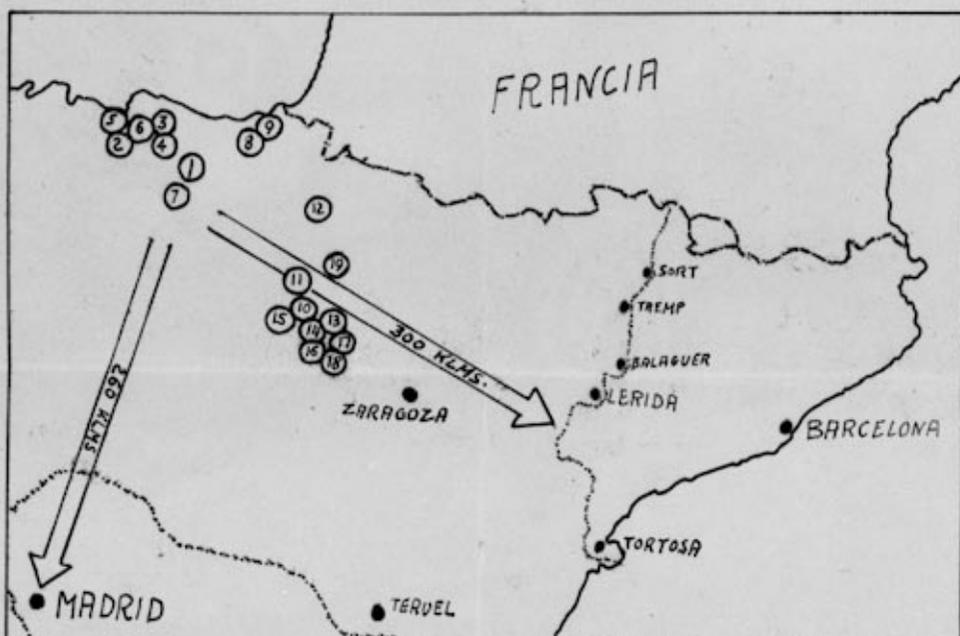
The White House.

7

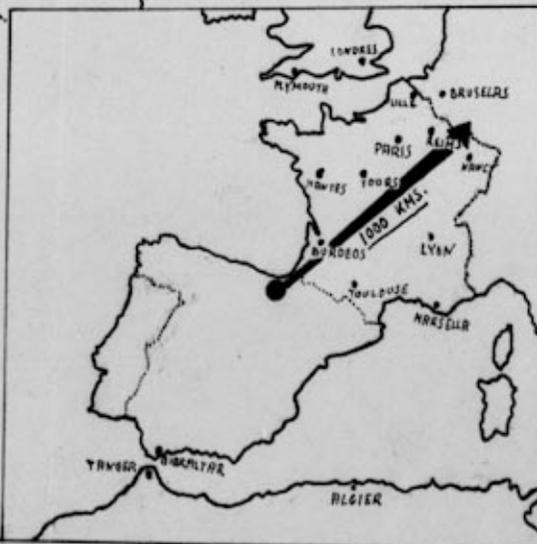


SPANISH EMBASSY
WASHINGTON

AERODROMOS ALEMANES E ITALIANOS EN LAS
PROVINCIAS VASCONGADAS ESPAÑOLAS.



- PROVINCIA DE
- | | |
|-------------------|-----------------|
| <u>VIZCAYA:</u> | <u>NAVARRA:</u> |
| 1-OCHANDIANO. | 10-CASTEJON. |
| 2-SONDICA. | 11-BUÑUEL. |
| 3-LAMIACO. | 12-MORIN. |
| 4-LLODIO. | 13-FUSTIÑANA. |
| 5-SOMORROSTRO. | 14-TUDELA. |
| 6-BARACALDO. | 15-CORELLA. |
| <u>ALAVA:</u> | 16-ABLITAS. |
| 7-VITORIA. | 17-CAPARROJO. |
| <u>GUIPUZCOA:</u> | 18-RIBAFORADA. |
| 8-LASARTE. | 19-RECAJO. |
| 9-SAN SEBASTIAN. | |





THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

75F-3201

*Mrs. Roosevelt
to read &
return
75F*

AMERICAN EMBASSY

Hotel Miramar
Saint-Jean-de-Luz, France, December 12, 1938.

*File
Personal*

My dear McIntyre:

Sometime ago I wrote the President on the direct request of the Spanish Government regarding plans for preventing the starvation of the 3,000,000 refugees in Barcelona and Valencia and elsewhere. I have since received a very interesting report on the food requirements, prepared by experts, and aside from the revelations of the needs in Spain, it may interest the President in its analysis of food values and requirements for children. If not, Mrs. Roosevelt may be interested, in which case you may give it to her; and otherwise I suggest that you send it to the American Red Cross.

Sincerely,

Charles G. Rowley

American Ambassador

*Rather favorable!
-SR*

Enclosure:
Report

Marvin Hunter McIntyre, Esquire,
Secretary to the President,
The White House,
Washington, D.C.

A Note on the technical advice given to the Spanish
Government on the feeding of refugees in Spain.

In June and July 1938 the Health Section of the League of Nations was asked by the Society of Friends in Barcelona to give advice on certain proposals for improving the nutritional value of the ration which the Society was providing for refugee children in Spain. Advice was given on the points asked, and in August 1938, a special Subcommittee of the Technical Commission on Nutrition, which was ^{then} meeting in Geneva drew up a plan for feeding refugees at minimum cost with a ration which, although only an emergency diet which would be inadequate for optimal health over a long period, would nevertheless "maintain life and prevent severe malnutrition". This ration consisted essentially of whole wheat, skimmed milk powder, cod liver oil, salt and dried brewer's yeast, the proportions of milk powder being higher for growing children than for adults. It was stressed that this ration contained no anti-scorbutic vitamin and that citrus fruits, potatoes, green leaves or sprouted grains must be added according to local possibilities (see Table 1).

In October 1938, the Spanish Government gave to the delegate of the League's Financial Section who was visiting Barcelona, a proposed ration for feeding 3,000,000 refugees (see Table 2). Members of the League's Technical Commission on Nutrition were asked to give their views on it. Professor André Mayer and Professor E.J. Bigwood, who were

in Geneva for a meeting of National Nutrition Committees in October, made a joint note pointing out the defects, of which they said the most important to be lack of fresh vegetables and fruit and shortage of fats. They suggested the addition of cod liver oil and yeast. Dr. Harriette Chick, to whom the plan of the proposed ration was sent, wrote a more detailed note (see Note 1) on the ration discussing the merits of each item.

In November a second plan of the ration for refugees was sent to the Financial Section of the League by the Spanish Government (see Table 3), and this plan was also referred to Dr. Harriette Chick and Sir Edward Mellanby for criticism. Dr. Chick wrote a detailed discussion (see Note 2) of the different items making suggestions for improving the ration by substituting certain foodstuffs. She pointed out the lack of provision for anti-scorbutic vitamin, and suggested that the peas and beans eaten should be germinated if no other foodstuff containing this vitamin is available.

Tableau I.

REGIMES PROPOSES POUR SECOURS D'URGENCE A DES POPULATIONS AFFAMEES.

N° 1.- Valable lorsque l'on dispose de quantités suffisantes de lait écrémé en poudre.

Enfants		Adultes		Notes
Blé entier	5 parties	Blé entier	12 parties	Il faut observer strictement ces proportions de lait écrémé par rapport au blé quelles que soient les quantités disponibles à répartir. Pour fournir 2000 calories à un adulte, il faut environ 500 gr. de blé et 45 gr. de lait écrémé en poudre.
Lait écrémé	1 partie	Lait écrémé en poudre	1 partie	
Huile de foie de morue	5 g. par jour	Huile de foie de morue	2 g. par jour	
Sel (Chlorure de sodium)	5 g. par jour	Sel	8 g. par jour	

N° 2.- Valable lorsque les quantités disponibles de lait écrémé en poudre ne permettent que d'en donner aux jeunes enfants.

Enfants		Adultes		Notes
Blé entier	8 parties	Blé entier (seul)		Dans le régime proposé pour les enfants, maintenir la proportion indiquée entre le blé et le lait écrémé. Les quantités à répartir dépendront des disponibilités.
Lait écrémé en poudre	1 partie			
Levure de bière desséchée	5 à 10 g. par jour	Levure de bière desséchée	10 g. par jour	
Huile de foie de morue	2 à 5 g. par jour (Selon l'âge)	Huile de foie de morue	2 g. par jour	
Mélange de sels (4 parties de chlorure de sodium et 1 partie de carbonate de calcium.)	5 g. par jour.	Mélange de sels	10 g. par jour	

* NOTE: Lait condensé. Si l'on dispose de lait écrémé condensé au lieu de lait écrémé en poudre, il faut modifier les proportions indiquées de façon à assurer un apport équivalent des ingrédients non liquides qui entrent dans la composition du lait.

- VITAMINE ANTI-SCORBUTIQUE. Les régimes proposés ne contiennent pas cette vitamine. Ce principe essentiel doit être fourni par les ressources locales: oranges et citrons si possible, pommes de terre, choux ou autres végétaux, à défaut: graines ayant germé, infusions ou feuilles vertes non vénéneuses. Une demi-orange ou un demi-citron deux fois par semaine assurera un apport suffisant du principe anti-scorbutique.
- NOURRISSONS. Les enfants de moins de six mois doivent si possible recevoir du lait entier (qu'on peut au besoin reconstituer avec du lait condensé ou desséché), et de 2 à 5 g. d'huile de foie de morue. Si nécessaire on peut substituer au lait entier de la poudre de lait écrémé, mais alors le complément d'huile de foie de morue acquiert une importance toute particulière. L'apport journalier de l'élément anti-scorbutique est également essentiel pour le nourrisson: la dose appropriée est de 5 g. (une cuillerée à café) de jus de fruit frais par jour (de préférence orange ou citron).
- GRAISSE. Ces régimes ne contiennent qu'une quantité de graisse insignifiante. Il est désirable d'en ajouter selon les disponibilités.
- LES VIANDES, LES LEGUMES SECS ET LES CEREALES autres que le blé, peuvent le cas échéant être substitués à une quantité équivalente de blé.
- Un apport supplémentaire de cacao et de sucre n'est pas essentiel, mais est néanmoins souhaitable, surtout pour les enfants, car il rend plus agréable au goût des régimes aussi peu variés que ceux qui précèdent.