

FDR Thought Part Of Lend-Lease Act Unconstitutional

By DOUGLAS B. CORNELL
WASHINGTON (AP) — President Franklin D. Roosevelt signed a lend-lease bill in 1941 although he branded a portion of it unconstitutional in a unique official opinion that has been kept secret for 12 years.

Supreme Court Justice Robert H. Jackson, who was Roosevelt's attorney general in 1941, brought the opinion to light in an article in the current issue of the Harvard Law Review.

What the President objected to was provision that would let Congress cancel the lend-lease law merely by pushing a resolution through the House and Senate—not by separate legislation subject to presidential veto. Jackson said Roosevelt considered the provision "constitutionally objectionable but politically necessary."

Later on, Jackson writes, Roosevelt approved a series of laws with provisions similar to the one he pronounced unconstitutional. Jackson does not discuss any such later legislation in detail.

"Its acceptance," Jackson says, "no doubt eased the path to enactment of his wartime legislation. But from his earnestness in discussing this practice with me, I know he regarded it as a triumph of expediency over principle."

The former attorney general said Congress put in the provision with the support of administration forces who felt it was not too damaging to the lend-lease bill and would meet criticism that the measure gave too much power to the President. The bill authorized a seven billion dollar aid program for war-time allies.

On March 17, 1941, 10 days before Roosevelt signed the bill, Jackson got a memo from FDR asking him to draft a memorandum putting the Chief Executive on record that "the emergency was so great that I signed the bill in spite of a clearly unconstitutional provision."

Jackson writes he turned the drafting job over to a special assistant attorney general, Alexander Holtzoff, now a federal district judge in Washington. Roosevelt, he said, signed the Holtzoff draft without change.

The President, Jackson says, asked him to put the document in the Justice Department files and left it to him to make it public at some future time.

"The document probably is the only one of its kind in our history—it is extraordinary for the President to render a legal opinion to the attorney general," Jackson said.

Jackson says he is making it public now because it supplements a previous article in the Harvard Law Review on the control of federal administration by congressional resolutions and committees, written by Robert W. Ginnane, a Justice Department attorney.

Why didn't the President make his opinion public at the time? "The reason," Jackson says, "was political."

The President's views, he explains, were those of opponents of the lend-lease bill, people who were his consistent political enemies.

Legislators who normally were loyal supporters of the President, he said, argued that the provision to which Roosevelt objected was valid and was an effective check on any "runaway executive action."

"For the President to make public his views at that time," the justice says, "would confirm and delight his opposition and let down his friends. It might seriously alienate some of his congressional support at a time when he would need to call on it frequently. It would also strengthen fear in the country that he was seeking to increase his personal power."

At the same time, Jackson says, Roosevelt wanted to be on record, in case the provision ever were invoked.

Jackson says his own doubts on the question of the constitutionality of the provision were not satisfied but the point that disturbed him most never bothered the President in the least.

It seemed to me, Jackson said, "to depend on whether the provision was to be considered as a reservation or limitation by which the granted power would expire or terminate on the contingency of a concurrent resolution or was to be regarded as authorizing a repeal by concurrent resolution."

Roosevelt, he said, invariably referred to it as a repeal provision.



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Fairview School Contract Award

The School Board Monday night awarded a contract to Pinniger and Watkins for the proposed addition to Fairview School, Howard R. Perrin, architect for the project, announced.

Lowest bid on the contract was \$110,857 which included six classrooms and remodeling of the building front. Broderhous' bid for the same two items was \$123,752.

Plans include the six-room addition with three rooms on each floor, leveling and re-grading of the front play area with construction of retaining walls along the street front to provide a play area for smaller children, and modernization of the front entrance. In addition to the above work, the Board is contemplating enlarging and modernizing the kitchen during the summer. A plan to add a stage and music room to the auditorium was postponed.

Work will start immediately and should be finished by mid-December.

EAGLE FIRE

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