

THE HELIUM CONTROVERSY OF 1938

by

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PREFACE

This thesis was written to tell the story of one of the lesser-remembered political events of the year 1938. Compared to the really major happenings of that year--the Munich Pact or Japan's announcement of a "New Order for East Asia", for example--the controversy within the top echelon of the Roosevelt Administration over a prospective sale of American helium to Nazi Germany was of rather small moment. However, the affair is worthy of historical notice, as it had real significance in German-American relations at the time. It also provides an interesting insight into the working relationship between President Franklin D. Roosevelt and two of his leading Cabinet Officers, Secretary of State Cordell Hull and Secretary of the Interior Harold L. Ickes.

Fortunately for historians of twentieth-century America, Secretary Ickes left a personal diary of several volumes which cover in great detail his thirteen years in official Washington. Sometimes mordant, always informative, this diary sheds considerable light on the helium controversy and surrounding events. It has proven to be the major source of information for this paper.

I feel greatly indebted to Dr. Herman E. Bateman, now associate Dean of the Graduate College of the University of Arizona, who suggested the helium controversy as a likely topic for a master's thesis, and who directed the thesis with patience and understanding. I must also acknowledge the help given by the staffs of the University of Arizona Library and the San Diego City Library in obtaining source materials. Special thanks are due to Mrs. Ermelia Cole of Tucson, who did an expert job of typing the manuscript.

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ABSTRACT

On May 6, 1937, the German airship Hindenburg, inflated with hydrogen, burned at Lakehurst, New Jersey, killing thirty-six persons. Subsequently, the German Zeppelin Company, operator of the Hindenburg, announced that a supply of noninflammable helium would be sought from the United States for all future operations.

The United States enjoyed a monopoly of the world's helium. At the request of President Franklin Roosevelt, the current helium law was expanded to permit exportation for foreign airships.

Negotiations for a purchase of helium then began. By February, 1938, the only detail remaining was approval of a contract by Harold Ickes, Roosevelt's Secretary of the Interior. Pending this approval, Germany annexed Austria by force, and Ickes decided not to sell. He cited a section of the law which forbade exportation of any helium which had military importance.

Ickes was opposed by Roosevelt and Secretary of State Cordell Hull, who felt the United States was obliged to sell. But he stalled until Solicitor General Robert Jackson held that he could not be overruled.

The affair had little military significance, but it was a great irritant to Germany. It also created animosity between Ickes and Hull. In all, it provides a good example of Ickes in action.

CHAPTER I

THE HELIUM ACT OF 1937

On the 6th of May, 1937, the United States Naval Air Station at Lakehurst, New Jersey, was the scene of an aviation tragedy which stunned and shocked the whole world. Early that evening, the great German zeppelin Hindenburg caught fire and burned while attempting to come to earth. Thirty-six persons, many of them American citizens, lost their lives in this disaster, while dozens of others were severely burned or seriously injured. The sudden and terrifying nature of the fire was well-attested by many eyewitnesses. One told reporters:

I saw a spurt of flames It seemed to come from the rear of the ship. Then there was a terrific explosion and the entire airship suddenly became enveloped in flames. The nose of the airship was jerked upward and then the whole flaming hulk plummeted to the ground where the wreckage was instantly enveloped in dense black smoke¹

The Hindenburg had been one of the proudest accomplishments of Hitler's Germany. Measuring some 804 feet from stem to stern, with accommodations for seventy-two passengers, the ultra-modern airship could travel from her

1. New York Times, May 7, 1937, p. 21. For a highly readable account of the last hours of the Hindenburg see John Toland, Ships in the Sky (New York: Henry Holt and Company, 1957), pp. 309-339.

harbor in Friederichshafen, Germany, to Lakehurst in less than sixty hours. Commissioned in 1936 to supplant the famous Graf Zeppelin, the Hindenburg had made ten round-trip flights from Germany to the United States in that year; she had been completing her first ocean crossing of the 1937 season when she was destroyed.²

The Hindenburg disaster was ultimately attributed by dirigible experts to an accidental spontaneous combustion caused by the discharge of atmospheric electricity in the vicinity of a hydrogen leak in the ship's hull.³ Hydrogen had always been the standard inflating medium for German airships, being the lightest, most buoyant element in nature and relatively inexpensive to manufacture. While flammable, the gas was considered quite safe for passenger airships by the state-operated Deutsche Zeppelin Reederei (German Zeppelin Company) as long as standard precautions against accidental combustion were taken; their Graf Zeppelin had

2. J. Gordon Vaeth, Graf Zeppelin (New York: Harper and Brothers, 1958), pp. 171, 182-83, 184, 194. The Graf had remained in service after the Hindenburg was commissioned, and was in the air en route to Germany from South America when the new ship was destroyed. Because of the disaster, the Graf was grounded on arriving at Friederichshafen, and was soon retired, being considered too obsolete for further service.

3. Ibid., pp. 205-06. The only other likely explanation was sabotage, and not the slightest evidence of this was ever discovered. Sabotage was considered plausible by both German and American authorities because the Hindenburg carried two giant swastikas on her tail, and was thus a very striking symbol of the Hitler regime.

carried more than 13,000 people over six million miles without a single mishap.⁴ But the fate of the Hindenburg clearly prohibited further use of hydrogen. After receiving a report of the tragedy, Dr. Hugo Eckener, chairman of the board of the Zeppelin Company, told reporters that the future of the passenger airship depended on helium, a gas much more costly and much less buoyant than hydrogen, but not flammable.⁵ He also announced that he would seek a supply of helium from the United States government in order

4. "Airships", Encyclopedia Britannica, 1955 ed., Vol. I, p. 466. Unlike the Graf, the Hindenburg could boast of a fireproof smoking compartment. Smoking was forbidden on the Graf. (Vaeth, 172).

5. Time, May 17, 1937, p. 42; New York Times, May 8, 1937, p. 3; May 19, 1937, p. 3. Eckener, who was sixty-eight years old at the time of the Hindenburg's last flight, had been associated with Germany's great airship pioneer, Count Ferdinand von Zeppelin, almost from the time of the latter's earliest experimentations at the turn of the century. After the reconstruction of Germany following the First World War, Eckener reorganized Zeppelin's company (known as Luftschiffbau-Zeppelin) and led it to great success in the field of passenger flights. After commanding the Graf on a famous globe-circling tour in 1929, he was known the world over, and his name became almost synonymous with the airship. In 1935, the Nazi government absorbed Luftschiffbau-Zeppelin, creating the Deutsche Zeppelin Reederei as a state enterprise and placing it within the aviation ministry of Hermann Goering. Despite his anti-Nazi sympathies, Eckener was made chairman of the Reederei; the airship was looked upon as a valuable propaganda piece by the leaders of the New Germany, and the Old Captain's knowledge and reputation were indispensable to them. See Vaeth, pp. 26-45; 156; 162-67.

to continue operations with his next airship, the half-completed "LZ-130".⁶

The United States government was in a highly favorable position with regard to helium in 1937, controlling virtually all the world's supply. In the wake of the Hindenburg tragedy, Eckener's statement met with considerable sympathy within the United States. When the German government made an official representation to Washington to ask for several million cubic feet of helium on his behalf, President Franklin D. Roosevelt quickly instructed his Secretaries of State, War, Navy, Commerce, and Interior to form a committee and consider the request, as well as the wider question of liberalizing the government's restrictive policy on the exportation of helium.⁷ It took only a few days for the committee to conclude:

With adequate safeguards against the military use of exported helium, it would appear to be the duty of this country as a good neighbor to share

6. New York Times, May 8, 1937, p. 3; May 19, 1937, p. 3.

7. Harold L. Ickes, The Secret Diary of Harold Ickes (New York: Simon and Schuster, 1954), Vol. II, p. 143. Under existing federal law, government-owned helium could be leased, but not sold, to nongovernmental consumers, if a surplus existed; no quantity of the gas, however small, could be leased by a foreign agency, without the approval of the Secretaries of War, Navy, and Commerce, and the permission of the President. This strict policy was a reflection of the great value placed on the nation's helium resources by Congress and by the administrations of Coolidge, Hoover, and Roosevelt.

our unneeded surplus it may have with other countries for the promotion of commerce and science, alleviation of human suffering, and the safeguarding of lives of passengers on airships, thus promoting international good will.⁸

Roosevelt passed this recommendation on to Congress, where a revision of the existing helium law had been under consideration for several months, adding the comment that he considered it to express a "sound national policy."⁹ This was done on the 25th of May, less than three weeks after the loss of the Hindenburg.

At this point the role of the United States government in the helium field should be more fully explained. Helium, which exists widely throughout nature, is found in quantities feasible for extraction almost exclusively within the United States, chiefly in the gas fields of the Southwest.¹⁰ This element was a laboratory curiosity until the 20th Century; during World War I the federal government

8. U.S., Congress, Senate, Committee on Military Affairs, Report Amending the Helium Act, Report No. 964, 75th Cong., 1st Sess., 1937, pp. 5-6. This document was signed by Cordell Hull, Secretary of State; Harry H. Woodring, Secretary of War; Claude A. Swanson, Secretary of the Navy; Daniel C. Roper, Secretary of Commerce; and Harold L. Ickes, Secretary of the Interior, the committee chairman.

9. Ibid.

10. In addition to the United States, only Canada is known to have produced helium in any significant amount, and such production has been of minor importance. See "Helium", Encyclopedia Britannica, 1955 ed., Vol. XI, pp. 400-01.

began producing it to inflate military balloons, as the gas was not flammable and was second only to hydrogen in buoyancy. Helium was later found to be useful medically, in the treatment of respiratory ailments, and its inert nature and extremely low freezing point led gradually to applications in several scientific and commercial areas as well.¹¹ Helium began to be produced after World War I by private enterprise, but since the gas was seldom offered at a permissible price, the government continued to supply its own needs, which were mainly for army and navy lighter-than-aircraft.¹² In 1925, an act of Congress centralized responsibility for all federal helium production and supply within the Bureau of Mines of the Department of the Interior. This act also vested the Secretary of the Interior with authority to acquire helium-bearing lands, to procure and conserve the element.¹³ Four years later, under this act, the United States acquired rights to the "Cliffside" gas field

11. Statement of R. A. Cattell, Chief Engineer, Petroleum and Natural Gas Division, Bureau of Mines, Department of the Interior, for the Senate Committee on Military Affairs. Printed in SCMA, Report, pp. 11-15. See also U.S. Bureau of Mines, The Properties and Uses of Helium, 1946, pp. 1-66.

12. U.S., Congress, House, Committee on Military Affairs, Hearings, Conservation of Helium Gas, 75th Cong., 1st Sess., 1937, pp. 25-31.

13. U.S., Congress, An Act Authorizing the Conservation, Production and Exploitation of Helium Gas, Public Law 544, 68th Cong., 2nd Sess., 1925, Secs. I-II.

near Amarillo, Texas, considered the finest source of helium in the world. Adjacent to the Cliffside Field, an elaborate extraction plant was constructed, giving the Bureau of Mines facilities deemed adequate to supply federal helium consumption for well over 100 years.¹⁴

The revision of the helium law which was under consideration in May of 1937 had originated within the Department of the Interior some time before the Hindenburg disaster. In early 1937, Interior Secretary Harold L. Ickes sent identical letters to the President of the Senate and the Speaker of the House of Representatives, proposing the authorization of outright sales of surplus federal helium to consumers outside the government. Ickes justified this proposal as the most feasible way to make the expensive gas more widely available within the United States and other countries for medical and scientific uses, and to foster development of a domestic commercial dirigible industry. He also indicated that outside sales would result in expanded production by the Bureau of Mines, providing a lower unit cost to all federal consumers.¹⁵ Behind the Secretary's

14. HCMA, Hearings, pp. 25-31.

15. Ibid., pp. 12-16. In his letters to Congress, Ickes explained that the lease provision of the Act of 1925 had proved ineffective in making helium available to the general public, as it raised serious problems of interpretation with a gas that was dissipated in use. However, he acknowledged that there had been several satisfactory lease arrangements under this act. (Ibid.).

proposal stood the fact that a serious drop in the helium output of the Bureau of Mines had taken place in the mid-1930's, due mainly to the decline of airship activity within the armed services. After the loss of the Macon in 1935, the navy had been without a single dirigible, while by 1937 the army was planning to abandon all lighter-than-air materiel.¹⁶

The state of the private helium industry in 1937 was conducive to Ickes' proposal. Subsequent Congressional hearings brought out the fact that there was only one private producer in the United States at this time, the Girdler Corporation of Louisville, Kentucky. In testimony before the House Military Affairs Committee, Dr. A. L. Barach of the Columbia University Medical Center stated that a 6,000-liter tank of helium cost about thirty dollars from "a private producer" (Girdler) while the Bureau of Mines could produce the same quantity for not more than five dollars.¹⁷ His point was that Girdler did not have enough customers to produce in large volume and offer a reasonable price. This was admitted by Girdler's vice-president, James T. Howington, who told the House Committee: "The whole situation

16. Statement of R. A. Cattell, SCMA, Report, p. 15. On this subject see Edwin J. Kirschner, The Zeppelin in the Atomic Age, (Urbana, Ill.: University of Illinois Press, 1957, pp. 23-32).

17. HCMA, Hearings, p. 18.

today in the helium business is that nobody has enough helium business."¹⁸

Increased consumption and expanded production by the Bureau of Mines, then, were the primary ends sought in the revision of the helium law; the recommendation of the Presidential committee to make the gas available to Germany and other foreign consumers was entirely consistent with it.¹⁹

The legislative bill which developed in the Senate out of Secretary Ickes' proposal on helium had been reported by the Military Affairs Committee of that body a few days after the Hindenburg disaster. In view of Germany's request for helium, however, it was recommitted for further study.²⁰ After the recommendation of Roosevelt's special committee reached Congress on May 25, this bill was greatly enlarged.²¹ When passed and signed into law (on September 1, 1937) it reflected all the provisions sought originally by the Secretary

18. Ibid.

19. In his own proposal to Congress, Secretary Ickes had recommended no changes in the current restrictive procedure for exporting large quantities of helium, as would be required for airship inflation. But after the Hindenburg disaster, as chairman of the Presidential committee on helium, he had readily joined the other members in their liberalizing recommendation. (See HCMA, Hearings, pp. 12-16; Ickes, Vol. II, pp. 145-46).

20. U.S. Congressional Record, 75th Cong. 1st Sess., pp. 4262, 4634.

21. SCMA, Report, pp. 5-6.

of the Interior and later by the Presidential committee.²²

The new helium law specified that any of the gas not needed for governmental use could be sold, "upon payment in advance in quantities and under regulations approved by the President, for medical, scientific, and commercial use"23

In providing for the export of helium in both large and small amounts, the new law included the recommended safeguards against possible military use:

No helium gas shall be exported from the United States or from its Territories and possessions, until after application has been made to the Secretary of State and a license authorizing said exportation has been obtained from him on the joint recommendation of all of the members of the National Munitions Control Board and the Secretary of the Interior: Provided, That under regulations governing exportation of helium approved by the National Munitions Control Board and the Secretary of the Interior, export shipments of quantities of helium that are not of military importance as defined in said regulations, and which do not exceed a maximum to be specified therein, may be made under license granted by the Secretary of State without such specific recommendation. Such regulations shall not permit accumulations of helium in quantities of military importance in any foreign country . . . and shall require exporters to submit a sworn statement to

22. Ickes' proposal to Congress had resulted in concurrent action by the Military Affairs Committees of both the House and Senate. The Senate bill was the first to come to a vote, and once passed, was accepted by the House with only a few modifications. (Ibid.; U. S. Congressional Record, 75th Cong., 1st Sess., 1937, p. 9655).

23. U.S., Congress, An Act Authorizing the Conservation, Production, Exploitation and Sale of Helium Gas, Public Law No. 411, 75th Cong., 1st Sess., 1937, Sec. III (b).

the Secretary of State showing the quantity, destination, consignee, and intended use of each proposed exportation.²⁴

The new law also gave the Bureau of Mines a virtual monopoly over helium production within the United States, in that it directed the Secretary of the Interior to purchase all private domestic helium properties developed prior to its passage.²⁵ In all, the new law marked a major change in the helium policy of the United States.

The Helium Act of 1937 did not pass Congress without some significant opposition. The Minority Report of the Senate Committee on Military Affairs, in considering its merit, offered three basic reasons why it should be rejected:

1. It was unnecessary for the government to establish a monopoly over the production of helium, because "no urgent necessity exists for the expense which such a monopoly will entail."

24. Ibid., Sec. IV, The National Munitions Control Board consisted of the Secretaries of State, Treasury, War, Navy, and Commerce; it had been authorized by a joint resolution of Congress, August 31, 1935, to regulate the manufacture and export of arms and munitions of war within and from the United States.

25. Ibid., Sec. I. This provision was intended to compensate the Girdler Corporation, the country's only private helium producer, for the loss of its market that would necessarily follow the sale of federal helium to private consumers. It was chiefly the work of Senators Alben Barkley and M. M. Logan, and Representative Andrew May, all Kentucky Democrats. Secretary Ickes' proposal on the public sale of federal helium had made no allowance for such compensation. (See U.S., Congress, Senate, Committee on Military Affairs, Hearings, Conservation of Helium Gas, 75th Cong., 1st Sess., 1937, pp. 65-67; U.S., Congressional Record, 75th Cong., 1st Sess., 1937, pp. 8603-08, 9640).

2. It was not sound policy "to dispose of helium to foreigners at this time"

3. It was not sound policy for Congress to delegate its authority in matters involving the export of a valuable natural resource.²⁶

The specific concern of the committee minority and other opponents of the measure centered on the possibility of exported helium being put to use in military airships and lighter-than-air craft. They pointed out that the chief beneficiary of the new law would be the German Zeppelin Company, and that with all deference to the restrictions provided against military use, any helium sold to the Zeppelin Company would be placed under the ultimate control of the aggressive Nazi regime of the New Germany, whose militant foreign policy was already beginning to disturb international opinion. The Third Reich was openly supporting the Nationalist side in the Spanish Civil War at this time, testing various new weapons in the process. Who could say that helium-filled airships, for bombing and reconnaissance, would not prove to be among these weapons? The possibility of military use was not glossed over by the Senate or House Military Affairs Committees during their hearings. Both groups received considerable testimony on this point, including that of Dr. Eckener of the Zeppelin

26. SCMA, Report, p. 21. The Minority Report was signed by J. Hamilton Lewis, Illinois Democrat, and by Henry Cabot Lodge of Massachusetts, Warren R. Austin of Vermont, Styles Bridges of New Hampshire, and Gerald Nye of North Dakota, all Republicans.

Company. While allowing that his country had used hydrogen-inflated airships and balloons extensively during the First World War, Eckener made light of the possibility of such applications for helium under present or future conditions of warfare, at least in Europe. "We would not have enough helium in Europe," he told the Senate Committee,

to use the ships for such purposes and I cannot visualize how it would be possible to transport a sufficient quantity over there to use the ships for military purposes. Then, will you please remember how Germany . . . is surrounded by thousands and thousands of military airplanes, and how could one expect to get outside the frontier with a ship in case of war? The ship is such a large target that one would have to be a very poor shot to miss it.²⁷

When asked if this opinion held true for America, he replied:

I could very well imagine that in view of the geographical location of the United States, which is not surrounded by countries that have military airplanes, and where you have open coastlines, and wide oceans dividing you from the next country, that such ships could be possibly effectively used as instruments of scouting.²⁸

27. SCMA, Hearings, pp. 118-20.

28. Ibid. Eckener was in the United States in late May to investigate the burning of the Hindenburg, and was invited to testify by both Congressional Committees holding helium hearings. While before the HCMA, he stated that the Deutsche Zeppelin Reederei was not operated by the German government but only received subsidies and directions as to timetables. Since the Reederei was an integral part of the German government's Ministry of Aviation, the Old Captain was apparently engaging in some wishful thinking here. He might sit in the director's chair, but ultimate policy was in the hands of Herrmann Goering, the aviation minister. (See Vaeth, pp. 166-70).

Eckener's discounting of helium as a tool of modern warfare was substantially supported before the Hearing committees by American military experts from both the army and the navy. These included Commander Charles E. Rosendahl, the navy's leading dirigible officer, who testified that he did not believe Germany or any other foreign country could use "blimps" for military purposes in wartime, and Major General Oscar Westover, chief of the Army Air Corps, who told the Senate Committee that although he believed airships had some military value to both the United States and Germany, the danger from releasing helium to the Zeppelin Company was remote.²⁹ In opposition to the testimony of Eckener and the military experts was that of Thomas B. Slate, an American engineer and entrepreneur who was planning to launch a domestic transoceanic passenger dirigible service. Slate testified before the Senate Committee on the day prior to Eckener's appearance, and stated that he could show figures to prove that the new German airship could not use helium to cross the Atlantic if it was to be like the Hindenburg. He expressed a firm belief that the

29. HCMA, Hearings, p. 148; SCMA, Hearings, pp. 142-43. Rosendahl, who was an eyewitness to the destruction of the Hindenburg, expressed himself to the House Committee as being strongly in favor of the exportation of helium, as a means of furthering world-wide development of the airship. He was firmly convinced that the airship had a definite future in "our scheme of things." (HCMA, Hearings, p. 140).

German government, not Dr. Eckener, wanted helium, for military purposes.³⁰ No one on the Committee asked for Slate's figures, probably because his interest in the helium bill was so obvious. When he learned of Slate's testimony, Eckener scoffed, and explained how easy it would be to modify the "LZ-130" to use helium.³¹ But Slate may have influenced a few of his listeners, as witness the Senate Committee Minority Report.

Debate on the helium bill was fairly prolonged when the measure reached the Senate floor in August for a vote. The leading point of contention was the relative danger of possible military use. Guided by Elbert Thomas, Democrat of Utah, who explained the provisions against such use and told of the attitude of American service experts, the bill passed the Upper House by a 37-26 margin.³³ In the House of Representatives, the Senate bill got a rough reception,

30. SCMA, Hearings, pp. 93-98.

31. Ibid., p. 118.

32. U.S., Congressional Record, 75th Cong., 1st Sess., 1937, pp. 8603-09, 8671, 8694.

33. Ibid., pp. 8608, 8671, 8694. The dissenting voters included Gerald Nye of North Dakota, Hiram Johnson of California, Arthur Vandenberg of Michigan, and William Borah of Idaho, all Republicans, and all leading exponents of the isolationist viewpoint then prominent in American politics. It is interesting to note that the same Congress which passed the Helium Act had previously passed the Joint Resolution of May 1, 1937, better known as the Neutrality Act of 1937. Among other things, this measure authorized the President to forbid loans and the shipment of arms and munitions to belligerents, to forbid the carrying of such

with many members voicing objections from an isolationist or anti-German point of view.³⁴ Representative Alfred Phillips of Connecticut was perhaps the most vociferous of these, as he ridiculed the adoption of a humanitarian posture toward Germany while that nation was active in the Spanish Civil War.³⁵ In the end, the Senate bill was able to pass the House only with the adoption of several amendments, the most important of which specified that "helium may be sold only for the inflation of such airships as operate in or between the United States, its territories and possessions, or between the United States, its territories and possessions, and foreign countries" and "no helium shall be sold for the inflation of any airship operating between two foreign countries notwithstanding such airship may also touch at some point in the United States."³⁶ These provisions reflected the opinion of the House Committee on Military Affairs that unlimited helium export would subsidize foreign airship companies in competition with the domestic international air

commodities on American ships, and to proclaim as illegal the travel of American citizens on belligerent vessels. It was probably the most extreme neutrality law to which the United States has ever been committed. (See Donald F. Drummond, The Passing of American Neutrality, [Ann Arbor: The University of Michigan Press, 1955] p. 46).

34. U.S., Congressional Record, 75th Cong., 1st Sess., 1937, pp. 9502, 9640-55.

35. Ibid., p. 9651. Phillips was a Democrat.

36. Ibid., pp. 9648-52. Final House vote was 151-78. (Ibid., p. 9655).

transportation industry.³⁷ Specifically, they would prevent the German Zeppelin Company from resuming its Germany-to-Brazil service unless hydrogen was to again be used to inflate an airship. While this amounted to a restriction of the Administration's expressed policy of free access to American helium, it did not constitute a major setback, and all the House amendments were accepted by the Senate and the President without issue. With the signing of the new law on September 1, Dr. Eckener and the Zeppelin Company could take heart; American helium was within reach.

37. Ibid., pp. 9648-52.

CHAPTER II

NEGOTIATIONS BEGIN

After the Helium Act of 1937 became effective, two legal provisions remained to be satisfied before the German Zeppelin Company could begin negotiations for their desired helium. First, it would be necessary for the Department of the Interior to draft regulations governing the production and sale of the gas for medical, scientific and commercial purposes, and for such regulations to be approved by the President.¹ Second, it would be necessary for the National Munitions Control Board and the Secretary of the Interior to draft and approve regulations governing the export of purchased helium.²

The regulations governing export were the first to be completed. They were published in mid-September of 1937, a few days after a meeting between the NMCB and a representative of Secretary Ickes. These export regulations were somewhat complex, reflecting the spirit of the law in attempting to guard against the accumulation of quantities of helium for military purposes. In essence, they provided

1. Helium Act of September 1, 1937, Sec. III (b).

2. Ibid., Sec. IV.

that application for a license to export any amount of the gas would be made on a prescribed form, properly notarized, and submitted to the Secretary of State. In cases involving helium for airship inflation, it would first be necessary for the prospective exporter to submit an affidavit requesting an allotment of the gas for a specified period, not to exceed one year. The affidavit would explain all operations contemplated with the helium, and would identify the aircraft to be used and the schedules to be flown. To be validated, an allotment request would require joint approval by the NMCB and the Secretary of the Interior. After validation of an allotment, the exporter could apply to the Secretary of State for an export license, to draw from the allotment as the helium was needed.³

Once the export regulations had been approved, the Zeppelin Company lost no time in starting negotiations. On November 23, the first export allotment under the new law was granted to their domestic agent, American Zeppelin Transport, Incorporated, of New York City.⁴ 17.9 million cubic

3. U.S., Congress, House, Second Annual Report of the National Munitions Control Board, 75th Cong., 3rd Sess., 1938, p. 2; pp. 86-94.

4. During the hearings on the helium bill, Thomas Knowles, of New York City, representing American Zeppelin Transport, told the Senate Committee on Military Affairs that his organization was American-owned and operated, and that it had represented the German Zeppelin Company in the United States during the time the Hindenburg was making flights to this country, with the idea of acquiring enough

feet of helium were authorized for the new German Zeppelin, the LZ-130, for the one-year period ending November 1, 1938.⁵ Application for a license to export the first 2.6 million cubic feet of this allotment was then submitted, as the Zeppelin Company and American Zeppelin Transport began making concrete arrangements to resume trans-Atlantic service between Frankfurt and New York by the coming June.⁶

The regulations governing the actual sale of helium by the Bureau of Mines were not approved by the President until January 14, 1938, as they involved wider considerations and required more detail than the export regulations. These sale regulations established the general conditions under which helium would be sold for non-governmental, or

experience in the Zeppelin field to operate a domestic airship line. The company's directors, he stated, were all American citizens with the exception of Dr. Hugo Eckener of the Zeppelin Company. (SCMA, Hearings, pp. 52-57, 120). According to Vaeth (p. 84), the directors of American Zeppelin Transport included such distinguished Americans as Charles F. Kettering of General Motors, Edward A. Deeds of National Cash Register, Paul W. Litchfield of Goodyear Tire and Rubber, and Roy A. Hunt of Aluminum Corporation of American.

5. NMCB, Second Annual Report, p. 92. This quantity was approximately three times the capacity of the new airship. It provided enough helium for replenishment and reserve, as well as for initial inflation. The LZ-130 had to be redesigned after it was decided the ship would use helium. Due to the reduced lifting power afforded by helium, Dr. Eckener and his engineers were forced to cut passenger capacity to forty, and eliminate some of the original luxuries featured, such as individual shower accommodations. (Vaeth, pp. 210-11).

6. New York Times, January 2, 1938, p. 7; January 5, 1938, p. 19.

"market" use, and set forth procedures for application and acceptance, cost and service charge computations, deposits and refunds.⁷ In vesting the Secretary of the Interior with final authority in matters concerning market helium, these regulations made it clear that federal users had first call on the Bureau of Mines' output, and that production for public consumption was not mandatory in any sense. The sale regulations could be outlined as follows:

1. A prospective purchaser of market helium would submit an application to the Bureau of Mines on a prescribed form, giving full information on quantities desired, delivery dates requested, expected use or disposition of the helium and whether export was contemplated. If for use in foreign airship operations, the application was to provide full information on programs and schedules and to give assurances that the helium would be used only as the law allowed.

2. Upon receipt of a proper application, the Bureau would determine the practicability of delivering the helium requested, and would advise the applicant. If delivery could be made, the applicant would be furnished an estimate of unit cost, service charges, delivery schedules, and the amount of deposit required.

3. If terms were satisfactory to the applicant, a purchase contract could then be executed on a prescribed form. The contract would be forwarded to the Bureau with a certified check to cover the deposit within ten days of receipt of the Bureau's terms. The contract would then be subject to the approval of the Director of the Bureau, and if it concerned more than 100,000 cubic feet of helium, would not be binding until approved in writing by

7. U.S., Federal Register, 1938, Regulations Governing Production and Sale of Helium for Medical, Scientific and Commercial Use, pp. 463-68.

the Secretary of the Interior. If disapproved, the deposit would then be refunded.⁸

The federal government reserved the right to repurchase all market helium sold by the Bureau of Mines and not lost or dissipated in use, when needed for federal consumption.⁹ No purchased helium could be resold without notification to the Bureau, so that the repurchase right could be exercised if desired.¹⁰ The only penalty provided for violation of any section of these regulations would be the possible denial of further purchase privileges.¹¹

8. Ibid., p. 465, Sec. 3. In all requests for market helium, quantities for medical use were to be given priority wherever possible. Unit cost on market helium was to be based on the Bureau's operating cost per unit produced, depreciation on plant and equipment, depletion on helium reserves, and interest at the rate of 3 1/2% per annum on capital expended after September 1, 1937, on market helium expenses. In addition, there would be a service charge based on general overhead contingencies and "intangible factors." In general, the deposit required would equal 120% of expected unit cost plus service charges. Where the quantity concerned was over 100,00 cubic feet, the initial deposit could be as low as one-half the total requested, with the balance due on delivery. Adjustments on final costs and service charges were to be made at the close of each fiscal year. (Ibid., pp. 464, Sec. 2, 465-66, Secs. 4-7).

9. Ibid., p. 467, Sec. 8.

10. Ibid., p. 467, Sec. 9.

11. Ibid., p. 467, Sec. 10. However, the Helium Act itself provided that "Any person violating any of the provisions of this section or of the regulations made pursuant hereto, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment; and the Federal courts of the United States are hereby granted jurisdiction to try and determine all questions arising under this section." (Sec. IV).

As had been the case after publication of the export regulations, the Zeppelin Company was quick to initiate negotiations when the sale regulations were approved by the President. On January 26, American Zeppelin Transport made application to the Bureau of Mines for the purchase of 10 million cubic feet of helium, more than half the quantity allotted them by the Secretary of State for export during the year ending November 1, 1938. Monthly deliveries of from 1.5 to 3 million cubic feet were requested, beginning in mid-February. The application specified that the gas would be picked up at Houston, Texas, after transportation from the Bureau's West Texas plant, and that negotiations for the balance of the allotment would be accomplished later in the year.¹² The procedures required by the sale regulations were set in motion; the Bureau approved delivery, and set the sale price at approximately \$7.50 per unit of 10,000 cubic feet of helium. These terms were agreeable to the Zeppelin Company, and a deposit of \$76,850 was quickly posted by American Zeppelin Transport, together with a completed contract form.¹³ Early in February, this contract

12. Memorandum of E. B. Swanson to the Secretary of the Interior, February 7, 1938, printed in the U.S., Congressional Record, 75th Cong., 3rd Sess., Appendix, p. 763.

13. Ickes, Vol. II, p. 344; Memorandum of Joseph C. Green, Executive Secretary of the National Munitions Control Board, sent to President Roosevelt by Secretary of State Cordell Hull, March 22, 1938. 811.659 HE/96A, Mss., Department of State, as cited in Charles C. Tansill, Back Door to War (Chicago: Henry Regnery Co., 1952), p. 351.

was presented to the Secretary of the Interior for his approval.¹⁴

In the meantime, an export license covering the first 2.6 million cubic feet of the Zeppelin Company's allotment had been approved by the Secretary of State on the last day of January.¹⁵ At this point, only two items remained to be accomplished before the first shipment of helium could be delivered at Houston and be started on its way to Germany. These were Secretary Ickes' signature on the purchase contract, and completion of negotiations for the acquisition of all helium properties of the Girdler Corporation by the Department of the Interior, as required by law before any market helium could be

14. Ibid. A German freighter, the Dessau, had already arrived at the Port of Houston in early January, to deposit containers for the first shipment of helium delivered, and to await delivery of the filled containers after the completion of negotiations. (New York Times, January 10, 1938, p. 19).

15. U.S., Congress, House, Third Annual Report of the National Munitions Control Board, 76th Cong., 1st Sess., 1939, p. 108. In announcing approval of the export license, Joseph Green of the NMCB revealed that in exchange for the helium allotment, the Zeppelin Company would permit two American naval observers to ride on any of their helium-filled craft, in order to study operational methods. (Time, February 14, 1938; p. 10). This announcement was especially noteworthy, as Congress was soon to authorize construction of a new dirigible for the navy. (See U.S., Congress, An Act to Establish the Composition of the United States Navy, Public Law 528, 75th Cong., 3rd Sess., 1938, Sec. VI).

sold.¹⁶ The Girdler purchase negotiations were already well-advanced; there appeared no reason to doubt that Dr. Eckener and his colleagues could make good their hope of placing the new zeppelin into service in the coming spring, perhaps even by the first anniversary of the destruction of the Hindenburg.

16. Helium Act of 1937, Sec. I (d). On the Girdler Corporation, see above pp. 8, 11.

CHAPTER III

SECRETARY ICKES RECONSIDERS

On February 4, 1938, approximately the same date that the Zeppelin Company's purchase contract was received by Secretary Ickes, an event took place which was to bear directly on the progress of the helium sale. On that day, Representative John M. O'Connell of Rhode Island appeared before the Senate Committee on Public Lands and Surveys to testify at a hearing into the fitness of Ebert K. Burlew, Ickes' administrative assistant. O'Connell's testimony had little to do with the personal qualifications of Burlew, who had been nominated for the post of First Assistant Secretary of the Interior. Rather, it had been solicited by Senator Key Pittman, a Committee member opposed to Burlew's nomination, as relating to the overall state of efficiency within the Department of the Interior.¹

1. U.S., Senate, Committee on Public Lands and Surveys, Hearings on the Nomination of Ebert K. Burlew, 75th Cong., 3rd Sess., 1938, part II, p. 361. Pittman, a Democrat from Nevada, was a bitter personal foe of Ickes, and according to the latter, was using Burlew's nomination as the occasion for an attack on Interior. (See Ickes, Vol. II, p. 300). The Burlew Hearings, which are voluminous, do bear out Ickes' contention. For his version of Pittman's motives and actions, see Volume II of The Secret Diary, pp. 292-93, 300-01, 304-06, and 325-27. Ultimately, Burlew's appointment was approved by the Committee and the Senate, with Pittman the lone Committee dissenter.

The testimony given by O'Connell was truly extraordinary. It amounted to an accusation of practical treason on the part of those in Interior responsible for the conservation of helium.² In general, O'Connell characterized the Helium Act of 1937 as the last step in a Nazi plot to obtain a supply of the gas for military use by Germany. Among his specific charges, O'Connell claimed that the Act was prepared by Interior "without any consultation of American interests"; that it had passed Congress "aided by German agents in the lighter-than-air [Mines] Bureau"; that the 17.9 million cubic feet of helium allotted the Zeppelin Company would give Germany "an enormous advantage" over her neighbors, and would not be used for commercial purposes because the Zeppelin Company's new airship had been designed to carry hydrogen and could not use helium safely or economically. O'Connell also asserted that while Interior would give out no information on an impending sale of helium, and had issued no export license, helium was presently being loaded into shipping containers at Cliffside, Texas, soon to be delivered into German hands at Houston and gone forever from American control.³

2. Burlew himself had no direct connection with helium or the Bureau of Mines.

3. SCPLS, Burlew Hearings, part II, p. 363. On the subject of the LZ-130 and helium, it had been disclosed on several occasions by Dr. Hugo Eckener that the ship was being redesigned to accommodate the gas. (See above, p. 20).

O'Connell's testimony was patent nonsense to anyone familiar with the Helium Act or the Zeppelin Company's purchase and export negotiations. His charge of secrecy was belied by many recent newspaper accounts, based on press releases from both Interior and the Department of State, telling of these negotiations.⁴ The Rhode Island Democrat was not received with much enthusiasm by the Committee, and nothing came of his charges. He was solidly rebutted within a few days by a memorandum from Interior's Petroleum Conservation Division, which became a part of the hearing record following his testimony.⁵ On February 16, after reading a copy of this memorandum, O'Connell sent Ickes a long letter. He complained that he had been misquoted, but

4. See, for example, the New York Times, January 2, 1938, p. 7; January 5, p. 19; January 10, p. 19; January 23, p. 28.

5. This memorandum took O'Connell's charges line by line and offset them with pertinent comments, based on information from departmental files. On the whole, it demonstrates that O'Connell was surprisingly unfamiliar with the Helium Act and subsequent regulations. As one example, note his claim that Interior was preparing to deliver helium without issuing an export license. Under the law, licensing for export was a function of the Department of State, not Interior. Moreover, an export license had in fact been issued to American Zeppelin Transport some four days previous to O'Connell's appearance at the Burlew Hearing. The Rhode Islander's outburst can be explained at least in part by the fact that he was interested in legislation which would provide federal financing for a private domestic group then seeking to establish a commercial airship line. The schedule contemplated by this group would make them direct competitors of the German Zeppelin Company. (See the U.S., Congressional Record, 75th Cong., 1st Sess., 1937, part I, p. 139).

went on to repeat several of his charges. "A permit has been issued for the shipment abroad to Germany," he wrote, "of 17,900,000 cubic feet of helium in containers, a quantity sufficient to inflate with a noninflammable, nonexplosive gas, over 350 military balloons, and with no restriction on its storage and accumulation in that country, or its sale or gift to [Germany's] allies for use for military purposes in Europe or other continents"6 When advised by Ickes that certain of his charges would be investigated by a "disinterested man", O'Connell responded:

In order to safeguard the public interest, uphold the law, and prevent the possible involvement of the relations of the United States with other friendly nations which might result from a Governmental department's furnishing the Nazi Government of Germany with a vast quantity of military helium in excess of any legitimate commercial use, may I respectfully suggest that you, Mr. Secretary, act now to suspend this shipment pending the completion of your investigation?7

6. O'Connell to Ickes, February 16, 1938, extended to the Congressional Record, 75th Cong., 3rd Sess., 1938, Appendix, p. 782. O'Connell was obviously discounting any effectiveness in the legal provisions against military use, if he was aware of them. He was evidently unaware of the government's repurchase option in the event of resale. (See above, p. 22).

7. Ickes to O'Connell, February 18, 1938, Ibid.; O'Connell to Ickes, February 22, 1938, Ibid., p. 784. The charges Ickes intended to investigate concerned an innuendo by O'Connell that certain present or former employees of the Bureau of Mines might be due for a percentage of the compensation to be paid the Girdler Corporation by the United States for its helium properties. (See O'Connell to Ickes, February 16, 1938). Ickes might have pointed out here that the Girdler purchase clause was not the work of the Bureau of Mines, but of several members of the Kentucky Congressional delegation. (See above, p. 11).

Ickes made no direct reply to this question. He concluded his exchange with O'Connell on February 23, writing that he did not believe O'Connell had the facts in the helium affair, nor did he want them. "The person who tries to build himself up by reckless statements based on misinformation always gets caught up with," he scolded. "So far as this Department is concerned, there is not a single fact in connection with this whole helium matter that will not bear the closest possible scrutiny."⁸

Although Ickes dismissed O'Connell and his allegations with little more than a touch of the pen, the Rhode Island Congressman had moved the Secretary to take a second look at the facts surrounding the helium sale. This apparently caused Ickes some misgivings. On February 26, he announced that the United States had completed negotiations for purchase of the Girdler assets, and that sales of market helium by the Bureau of Mines would begin in the near future.⁹ Three days earlier, however, on the same day as his parting letter to O'Connell, he had ordered his departmental solicitors to revise the helium sale regulations.

8. Ickes to O'Connell, February 23, 1938, Ibid., p. 782.

9. New York Times, February 26, 1938, p. 4; February 27, p. 31. The purchase price for the Girdler assets, which were located in Kansas and Colorado, was \$537,975.23. (U.S., Congressional Record, 75th Cong., 3rd Sess., 1938, part 8, p. 8544).

Specifically, Ickes was now raising three objections to the purchase contract which had resulted from the regulations he himself had originally approved: first, the proposed price of \$7.50 for each unit of 10,000 cubic feet of helium was too low; second, there was no provision in the contract for inspection by a representative of the United States, to insure that the helium was not put to military use; and third, there was no penal bond.¹⁰

To remedy these defects, the solicitors made the following additions to the original regulations:

(1) An explicit statement that "no purchaser shall use or permit the use directly or indirectly, of any helium purchased from the Bureau of Mines, for military purposes"

(2) A requirement that every contract covering the purchase of helium for use in airships must contain provisions for "the payment by the purchaser of liquidated damages in an amount to be fixed by the Secretary of the Interior, with the concurrence of the Secretaries of State, War and Navy, in the event of failure by the purchaser faithfully to comply with the Act and these regulations" and "a domestic corporate surety bond, satisfactory to the Secretary of the Interior, in like amount conditioned upon faithful compliance by the purchaser with the Act and these regulations."

(3) A requirement that any person or firm exporting helium would "permit . . . the examination and inspection by a representative of the United States of such helium and its use, and where the helium is used for the inflation of any airship, examination and inspection of such airship and its contents, of reserve supplies of helium, and of the processes of inflation, both in the

10. Ickes, Vol. II, pp. 324-25, 344.

United States and in any foreign country, all at such times and in such manner as such representative of the United States shall require."

(4) Expansion of the section of violations to include the cancellation of all future helium deliveries, the forfeiture of any deposits established, and the payment of damages and sureties along with the loss of purchase privileges for any violation of the Act or regulations.¹¹

These amendments became official when signed by Ickes and President Roosevelt on March 10. All together, they made the sale regulations truly formidable. From a diplomatic standpoint, the inspection and bonding requirements would be most difficult for the German Zeppelin Company, an agency of a sovereign government. Nevertheless, the Company's purchase contract was revised by the Bureau of Mines to conform to the new regulations, the price being raised to \$10 per 10,000 cubic feet of helium and the penal bond being set at \$500,000. This done, the contract was delivered to Ickes once again for his approval.¹²

In the meantime, however, Adolf Hitler had shocked the world with one of his sudden acts of force, having sent troops into Austria on March 12 to effect Anschluss, the unification of that nation with the Third Reich. This move was made to prevent an Austrian plebiscite on unification,

11. U.S., Federal Register, 1938, Amendments to the Regulations Governing Purchase of Helium Approved March 10, 1938, March 29, 1938, p. 647.

12. Ickes, Vol. II, pp. 325, 344.

which probably would have resulted in a mandate for continued independence. Such flagrant aggression was thoroughly distasteful to most observers in the United States, and none of these was more offended than Harold L. Ickes. A political liberal greatly devoted to democratic institutions, Ickes had long considered the militant leadership of Germany as a dangerous menace to world peace and social progress. Always outspoken, he had made many public pronouncements against Nazism and totalitarianism after becoming Secretary of the Interior in 1933. During the three months just previous to Anschluss, he had delivered two widely-publicized radio speeches attacking what he called "international Ku-Kluxism."¹³ It is not surprising, then, that Hitler's action against Austria was destined to influence the helium sale. "In view of Germany's ruthless and wanton invasion of Austria," he wrote shortly after receiving the amended purchase contract, "I

13. Ibid., pp. 266, 322-24. These speeches were entitled "Nations in Nightshirts" and "Democracy or What?". The former, delivered to the American Civil Liberties Union on December 8, 1937, criticized the denial of personal liberties in Germany, Italy and Japan, without mentioning those countries by name. The latter, delivered to the British people over short-wave radio on February 22, 1938, was a criticism of the aggressive tone of current German foreign policy as well as the appeasement policy of the British government. Ickes was a good speaker and an exceptional phrase-maker. As a prominent representative of the New Deal, he received frequent speaking invitations, and his topics were often far removed from the affairs of the Department of the Interior.

doubt whether it is right for us to sell any helium gas to Germany under any pretext."¹⁴ Accordingly, he proceeded to "pocket-veto" the contract, starting a controversy which was to attain world-wide notice before it was resolved.

14. Ibid., p. 344.

CHAPTER IV

THE CONTROVERSY

Secretary Ickes first informed the President and the other Cabinet members of his change of attitude toward the sale of helium to the Zeppelin Company on March 18. At a Cabinet meeting of that date, he brought the matter up and explained that the aggressive character of German foreign policy, as illustrated by the recent seizure of Austria, made it impossible for him to approve the helium purchase contract in good faith. The general reaction was not what Ickes had expected. No one came forward to applaud his position, and Roosevelt and Secretary of State Cordell Hull expressed outright opposition to it. Roosevelt and Hull both argued that the United States was under a moral obligation to sell helium to the Germans, in view of the advanced state of negotiations.¹ But Roosevelt did not press for an immediate settlement of the question. "In the end . . . the President suggested that I let it be known that in view of the present international situation in Europe the whole matter would be held in abeyance for a decision until he returned from Warm Springs [Georgia], where he is going next

1. Ickes, p. 344.

Tuesday for about ten days."² This suggestion was carried out on March 24, when Ickes told a press conference that the helium sale was to be held up "in view of the disturbed international situation."³

The decision to delay the helium sale was difficult for Secretary Hull to accept. Hull was as thoroughly involved in the affair as Ickes. His department had already issued an export allotment and license to American Zeppelin Transport for the German Zeppelin Company, and had indicated to Company officials at the end of January that delivery of the first batch of helium was only a matter of a few days. Hull had shown his dislike for Interior's revised sale regulations a few days after their publication. Together with the Secretaries of War and the Navy, he had suggested to Ickes in a memorandum that the penal bond requirement was too stringent and should be greatly reduced.⁴ Now that Ickes wanted to call off the sale altogether, he reacted with deep

2. Ibid.

3. Ibid., p. 346. There was apparently some confusion within the Department of the Interior over the official explanation for the delay in the helium sale. On March 22, a Departmental press release had advised that the sale was being held up because of difficulties in drafting a legal contract, and also because of certain unresolved questions on the purchase price. At the same time, this release had emphasized that the European situation was not a factor in the delay. (New York Times, March 23, 1938, p. 18).

4. Ickes, p. 344.

displeasure. Before the President left for Georgia, Hull presented him with a long memorandum which reviewed the history of the purchase negotiations and reiterated the Secretary's own point of view:

Recent developments in the European situation do not affect the fundamental issues involved in this case This Government would lay itself open to a charge of bad faith if it were now to refuse to permit the proposed exportation or to employ indirect means such as the requirement of an exorbitant bond from the purchaser in order to make the proposed exportation impossible.⁵

The President's decision to defer the issue meant that Ickes had won the first round. With Hull determined to oppose him, it remained to be seen if he could win the whole fight.

The Secretary of the Interior had not been the only man in Washington to react unfavorably to Hitler's action against Austria. That event had touched off a flood of criticism of Nazi foreign policy by many public officials, most of them members of Congress. Much of this criticism was reflected in legislative proposals or resolutions, and several of these touched directly

5. Memorandum of Joseph Green, sent to President Roosevelt by Secretary Hull, quoted in Tansill, p. 351.

on the helium sale. On March 14, the day after Anschluss was proclaimed, Representative Donald O'Toole, Democrat of New York, introduced in the House an amendment to the Helium Act which would forbid the exportation of any of that gas to Germany. His justification was the possibility that the helium might be used against the United States in a future war.⁶ On March 25, Senator Arthur H. Vandenberg of Michigan introduced into the Upper House a measure to repeal the entire commercial sale provision of the Act of 1937, and thereby prevent the use of American helium in a German airship.⁷ On March 29, Representative Alfred W. Phillips of Connecticut attempted to attach to a House appropriation bill an amendment which would prohibit the exportation of federal helium for any purpose except medical treatment, such cases to be subject to the discretion of the President.⁸ On April 13, Representative J. Parnell Thomas, a New Jersey Republican, proposed to the House that the entire Helium Act of 1937 should be repealed, as it had been rushed through Congress at

6. U.S., Congressional Record, 75th Cong., 3rd Sess., part 3, p. 3358.

7. Ibid., part 4, p. 4069.

8. Ibid., p. 4316.

adjournment time without due consideration. Thomas also offered four reasons why the sale to the Zeppelin Company should not be made:

- (1) The amount requested was too large.
- (2) Many high officials were openly skeptical of Germany's aims.
- (3) Public sentiment was definitely opposed.
- (4) Conditions in Europe were too unsettled; war might be imminent.⁹

None of these proposals emerged from committee or were otherwise approved.¹⁰ But they gave considerable encouragement to Secretary Ickes in his stand on the helium sale, as did the attitude of the general public.

9. Ibid., part 5, p. 5341.

10. But at least one of them was not without strong support in Congress. Ickes related the following incident to his diary in mid-April: "Senator Sheppard [Morris Sheppard, a Texas Democrat] was in to see me this morning. He is Chairman of the Military Affairs Committee of the Senate. He told me that he agreed with my position on helium and that he hoped I would prevent the shipment. I asked him about the bill that had been introduced in the Senate by Senator Vendenberg prohibiting the sale of helium to any foreign country. He said that this bill would probably pass his committee and pass the Senate if it had a chance, but he has not taken it up yet before his committee because he hoped that the Administration would take the leadership in the matter." (Ickes, Vol. II, p. 375-76).

In mid-April, Ickes noted in his diary: "There is a great deal of public interest in this question. I am getting a number of resolutions from such bodies as labor unions, protesting against any sale of helium, and many letters have come in. I believe that ninety-nine per cent of the letters are in support of my position."¹¹ There were no doubts in Ickes' mind by this time that the people were with him.¹²

The President returned to Washington from his Georgia vacation at the beginning of April, but due to the pressure of more important business, the helium sale was not taken up seriously until April 19. On that date Roosevelt and Ickes met alone and discussed the matter fully. This time the Secretary argued not from an

11. Ickes, p. 373. The helium affair was receiving more and more attention from the press by this time. The New York Times was giving it mention almost daily. (See the Times of April 15, p. 15; April 16, p. 4; April 19, p. 10; and April 20, p. 7). These articles were brief and speculative, as very little concrete information was being given out.

12. Ickes' opinion is reinforced by the aviation column of the New York Times for March 27, 1938, (Sec. IX, p. 4) in which the writer notes a growing sentiment that the helium sale should not be made.

anti-Nazi position, but from the premise that a sale of helium to Germany in the quantity desired would be a violation of the law.

I had with me excerpts from the testimony before the Committee on Military Affairs of the House of the ranking officers of the Army and Navy who are experts in aircraft of different sorts. According to these officers, helium could play a very definite and useful part in a war. The President listened carefully when I argued that it seemed to me that I would be violating my duty if I approved a contract that would place within the control of the German Government a large quantity of helium, which certainly would have its uses in war, when I was proceeding under a statute which forbade me to sell helium to a foreign country if it was of military importance. I also pointed to the proposal to build a dirigible for our own Navy, which would be filled with helium, as distinctly negating any idea that helium in large quantities was not of military importance.¹³

Ickes' position had crystalized into its final form at this point. His emotional distaste for completing the sale had been rationalized into a legal complication which prohibited completion. The military experts he cited had indeed testified on the possible military applications of helium. In so doing, however, they had expressed their

13. Ickes, pp. 372-73.

doubts that selling even large amounts of the gas to a foreign country would be of much military consequence.¹⁴

Ickes had been familiar with their testimony for the better part of a year. It had raised no legal qualms until after Germany's seizure of Austria. Nevertheless, the point was sufficiently vague to enable the Secretary to build a rationale around it, which Roosevelt did not attempt to dispute.

The President was quite open-minded and told me to adopt a Fabian policy. I said that if we were not going to sell this helium, it would be well for the announcement to come from him because there would be a good deal of credit for him in declaring such a policy. His thought is to drag the thing along. If the Congress passes the bill for the Navy dirigible, then we will submit the whole question to the Attorney General for an opinion. However, the President told me not to ask for an opinion just now.¹⁵

14. On the testimony of Major General Oscar Westover and Commander Charles Rosendahl, which Ickes was citing to the President, see above, p. 14. Ickes' "statutory" argument had been foreshadowed on two occasions just prior to his conversation with the President. On April 14, he had announced to the press that the United States would not sell helium to the German Zeppelin Company unless conclusive evidence could be given that the gas would not be used for military purposes. (New York Times, April 15, 1938, p. 15). The next day, he explained to a delegation of executives from American Zeppelin Transport: "I hadn't been satisfied yet that I could approve this sale under the statute which forbids the sale of any helium that would have military importance." (Ickes, Vol. II, p. 369).

15. Ibid., p. 373. By "the bill for the Navy dirigible" Ickes was referring to an impending naval authorization bill which included a new airship. This bill passed Congress in early May and was signed into law on May 17.

It would be easy for Ickes to "drag the thing along." This was exactly what he had been doing for over a month.

After his session with the President on April 19, Ickes made several equivocal announcements which served to keep the helium affair beclouded. He advised the press: "There are legal and practical questions that have to be resolved before I can express them in a contract."¹⁶ He went on to say that a decision might be expected within a week. At the same time, he hinted on the probable outcome of the issue, by expressing his doubts that a contract could be approved without the penal bond provision, which the Germans did not seem to like.¹⁷

The Germans were unhappy with more than the penal bond at this point. They were deeply concerned over Ickes' handling of the entire matter. The weeks of delay were undoing Dr. Eckener's plans to resume Zeppelin service to New York by the end of spring. Preliminary modifications to enable the LZ-130 to use helium had been completed early in the year, but without a supply of the gas, the work could not be tested. At the end of March, when Ickes' revised sale regulations became known in Germany, Eckener reacted by sending a telegram directly to President Roosevelt.

16. U.S., Department of State, Foreign Relations of the United States, 1938, Vol. II, pp. 458-59.

17. New York Times, April 16, 1938, p. 4; April 20, p. 7.

Eckener re-emphasized that he and all other Zeppelin experts in Germany were of the opinion that a helium-inflated airship was not capable of conducting military operations. He begged the President to consider the matter himself and take immediate favorable action on the original purchase application.¹⁸ When this appeal produced no tangible results, the matter appeared so serious to the German government that a formal representation was made to the American ambassador in Berlin. On April 13, Ambassador Hugh R. Wilson informed Washington that Prince Bismarck of the Foreign Office had just gone over the whole question with him, and had left no doubts that Hitler's Government was considerably upset by the turn of events. The Zeppelin Company had been allowed to proceed with the new airship, Bismarck had explained, because it appeared that helium from the United States would be available. Continuation of this work had involved considerable outlay. Officials of the Company

had understood that authorization would be given to their application for export upon their declaration that the helium would not be used for war purposes. They were ready to fulfill all requirements which had been stipulated.

On March 31 [sic] a new set of regulations was, however, issued which provided both for the posting of a bond to guarantee the non-utilization of helium for war purposes and for control within Germany by American officers of the disposition of helium.

18. Dr. Hugo Eckener to President Roosevelt, April 5, 1938, 811.659 HELIUM/102 Mss., U.S. Department of State, as cited in Tansill, pp. 352-53.

Both of these conditions were impossible of acceptance for the reason that they both cast doubt upon the good faith of the German Government in making a promise not to use helium for war purposes.¹⁹

Wilson explained that Bismarck had gone on to tell of his earnest hope that the sale could be worked out, because he wanted to see Zeppelin service resumed between the United States and Germany, "and because he realized what a shock it would be to German public opinion if it had to be explained that a sudden recoil of policy on the part of the American Government had made it impossible to carry out the plans that had been laid."²⁰

Wilson had advised Bismarck that he would cable Washington for further information. In so doing, he commented:

I only know the details . . . of this matter from the German point of view, but I do know that the German Government is sincere in its belief that the new regulations would constitute an unfair departure from the original understanding and would regard them as evidence of an unfriendly act on the part of the United States Government toward Germany. Unless a prompt solution can be found in this matter I believe that so deep a resentment will be created not only among Party men but among Foreign Office men, on whom we must rely in discussion of our cases, that it would be difficult to obtain effective protection and fair treatment for American individuals and interests in the many cases that we are obliged to bring before the Foreign Office.²¹

19. Foreign Relations of the United States, pp. 457-58.

20. Ibid.

21. Ibid.

On April 20, Under-Secretary of State Sumner Welles dispatched a reply to Wilson which filled him in on the basic details of the helium sale, and advised him of Ickes' conference with Roosevelt on April 19. Welles quoted Ickes' announcement of "certain legal and practical questions yet to be resolved" and prudently concluded: "I cannot determine at this time how many weeks may elapse before the matter is disposed of."²²

On April 21, Wilson summoned Dr. Eckener and informed him of Welles' message. The Old Captain said he understood, and spoke kindly of the President and the Cabinet, but expressed the opinion that his country's action in Austria had created a sense of outrage in the United States. This was being exploited by certain American interests opposed to Zeppelin competition, he said, which he feared would lead to a purely political decision in the helium sale.²³ If Eckener was polite and restrained in his criticism, other more prominent Germans were not. On April 28, Wilson had a session with Aviation Minister Hermann Goering. Goering, who professed a great interest in Zeppelin development, betrayed deep emotion as he spoke. Very bluntly, he told Wilson that in his opinion, Washington's actions in the helium affair could only be evaluated as deliberate unfriendliness.

Relations between Germany and the United States had been brought to the lowest possible point and

22. Ibid., 458-59

23. Ibid., p. 459.

this over a matter of minor importance to both nations. [Goering] said: "I cannot understand what leads a nation to earn the enmity of another over such a little thing." He declared to me with considerable solemnity that as chief of the Air Service he gave his word of honor that the helium would not be used for war purposes, indeed it would be too stupid to contemplate putting an airship into war service which could be shot down so readily. Germany, however, could not accept a control of its word of honor. If it was impossible to get helium the German people would not forget America's attitude but it would not give up thereby the use of airships and would continue them with hydrogen.²⁴

Shortly after his meeting with Ambassador Wilson on April 21, Dr. Eckener announced he would soon sail to the United States. His intention was to go to the President and the other officials concerned, and give his personal guarantee that his country would use helium only for commercial airships.²⁵ Arriving in New York on May 6, the first anniversary of the Hindenburg disaster, Eckener poured his heart out to the press. "I am very sad that international politics are what they are," he lamented, "but why should the airship suffer? I cannot believe . . . that anyone here believes we can use airships for military purposes in Germany. We are surrounded by nations with thousands of airplanes. They would in a few minutes find our ships and hangars easy targets. For us the airship is now nothing more than a commercial vehicle."²⁶

24. Ibid., pp. 459-60.

25. New York Times, April 23, 1938, p. 4.

26. Ibid., May 7, 1938, p. 3.

Several members of Congress bristled at the idea of Eckener's visit. Representative Alfred Phillips, perhaps the most persistent Congressional critic of the helium sale, described the Old Captain as a "stalking horse" for Hitler. Shortly after Eckener's arrival, Phillips sent a telegram to the White House requesting that he be allowed to interrogate the German in the presence of the President on the military applications of helium.²⁷ Secretary Ickes was a little more kindly disposed. He told a press conference of May 6 that he was willing to see Eckener, but at the same time expressed unequivocally his opinion that a sale of helium to the Zeppelin Company under their allotment of the previous November would be a violation of the law. On a more hopeful note, he added that his office was currently evaluating new information from the Departments of State, War, and Navy.²⁸

Dr. Eckener arrived in Washington on May 7, but found the President temporarily away from the city. His first formal contact with American officials was at a dinner given in his honor by the German Embassy on the 9th. Several top State Department figures were invited to this dinner, including Under-Secretary Sumner Welles, but Ickes

27. U.S., Congressional Record, 75th Cong., 3rd Sess., part 6, pp. 6395, 6701.

28. New York Times, May 7, 1938, p. 3.

was left off the list in an obvious snub.²⁹ On the 10th, Roosevelt returned to Washington and called a special conference on helium in order to settle the issue with Ickes before seeing Eckener. The conference was held at the White House on May 11. Those present were Roosevelt, Ickes, Solicitor General Robert H. Jackson, General Malin Craig, Army Chief of Staff, and Admiral William D. Leahy, Chief of Naval Operations. The President's intention was to submit the legal aspects of the case to Jackson for a ruling, and then make a decision on the sale. Roosevelt took the lead in this conference, and went to great lengths to explain why he believed the helium desired by the Zeppelin Company did not have military importance. According to Ickes, the President "argued quite effectively" for his point, and was fully supported by Admiral Leahy and General Craig.³⁰ Ickes then presented his position and took strong exception to the President's contention. He remarked that experts from both armed services had testified before the House Military Affairs Committee that helium did have some military importance, repeating what he had said to Roosevelt on

29. Ibid., May 9, 1938, p. 4. Concerning this snub, Ickes had this to say in his diary: "I would not have accepted even if I had been invited. I doubt the propriety of such a dinner at all and I especially doubt the propriety of Government officials attending what was known in advance to be an effort to lobby helium out of us." (p. 391).

30. Ibid.

April 19.³¹ The Secretary went on to state that he did not see how the helium shipment to Germany could be approved, in view of what seemed to be a "plain" statutory prohibition against the accumulation of helium in quantities of military importance.³² The President replied that in any event, the helium would not be shipped unless there was a guarantee from Hitler that it would not be used for military purposes. Ickes countered that the statute did not turn upon whether helium might be used for military purposes but whether it had military importance. He also made the obvious point that to ask Hitler for a guarantee against military use was to admit that helium has military importance and might be used for military purposes. He went on to cite the naval authorization bill just passed by Congress, which provided for a large helium-inflated airship, as still one more proof that helium had military significance. Then Ickes executed his coup de grâce. He announced that his departmental solicitor had advised that the whole helium proceeding had been defective, since the meeting between the Secretary of the Interior and the National Munitions Control Board at which the allotment to the Zeppelin Company had been made was attended entirely by proxies. Ickes' implication was

31. Ibid. On the meeting of April 19, see above, pp. 41-43.

32. Ibid., pp. 391-92.

that authority to pass on the military importance of a proposed helium shipment could not legally be delegated. When he turned to Solicitor General Jackson for an opinion on this point, Jackson agreed, and ruled further that the President had no authority in the premises.³³ The upshot was that if the shipment to Germany was to be made, the Secretaries of State, Treasury, War, Navy, Commerce and Interior would have to meet personally and agree unanimously to such a move. In view of Ickes' attitude, it was obvious where this ruling left Roosevelt. "At this point", Ickes later related to his diary, "the President gave up."³⁴

The Secretary had previously pointed out to Roosevelt the great number of letters opposing the helium sale that were coming in, and had suggested that it would be a bad political move to make the sale in the face of an adverse public opinion. He had also suggested that the best solution was to let him carry full responsibility in the matter.³⁵ After Jackson made his oral ruling, Ickes

33. Ibid. In his diary account of this ruling, Ickes indicated that he, as Secretary of the Interior, was a member of the National Munitions Control Board, -- which was erroneous. The Board consisted of the Secretaries of State, War, Navy, Commerce and Treasury. The wording of the Helium Act made it necessary for both the Board and the Secretary of the Interior to approve any amount of the gas for export, and this was obviously the point on which the Solicitor ruled. (See Section 4 of the Helium Act, as cited above, pp. 10-11).

34. Ibid., pp. 392-93.

35. Ibid., p. 393.

proposed to the President that he issue a press release without delay, giving the substance of the ruling. This was done at the completion of the conference, and Ickes exulted to his diary: "it looks now as if the matter were finally settled."³⁶

The wording of the press release left no doubts as to the outcome of the issue:

The conference has concluded with the result that a reading and study of the [Helium] Act leaves the President powerless to make any decision. The Act says specifically that the sale of helium [for export] can be done only with the consent of the Munitions Control Board and places the responsibility on six Cabinet officers.

Objection by any one of the six prevents the sale.

In other words, they have to be unanimous. The President is without legal power to override the judgment of any one of the six and direct the sale of helium for export³⁷

This announcement was given considerable attention by the national press and evoked much favorable comment. One reader of the New York Times commented: "The value of helium for military purposes has been attested by many authorities To Secretary Ickes' careful study of these opinions there has no doubt been added a conviction that since Germany has disregarded agreements in the past she is quite likely to do so in the future."³⁸ The Times

36. Ibid., p. 393.

37. New York Times, May 12, 1938, p. 9.

38. Ibid., May 15, 1938, Sec. IV, p. 9.

itself ran an editorial giving Ickes full support, concluding: "Some compromise should be found which will not leave us open to the charge of having blocked technological progress, nor cause us to regret our liberality when the guns begin to boom."³⁹ In Congress, praise for Ickes was widespread. Senator William King, a Utah Democrat, stated: "I commend Secretary Ickes for his stand in the helium situation Hitler and the policies he is pursuing is [sic] not worthy of this act of comity on our part."⁴⁰ Senator Patrick McCarran, a Nevada Democrat, was even more laudatory: "This action by Secretary Ickes is one of the outstanding things he has done during six years of splendid service."⁴¹ And from the floor of the House, congratulations to Ickes were extended by Representative J. Parnell Thomas, a New Jersey Republican, who was frequently at odds with the Secretary on other matters.⁴²

The reaction of Dr. Eckener to the outcome of the President's conference was one of profound disappointment. "I am afraid that it means the death sentence for commercial lighter-than-air craft, and this after the Helium Act had

39. Ibid., May 13, 1938, p. 18.

40. Ibid., May 14, 1938, p. 1.

41. Ibid.

42. U.S., Congressional Record, 75th Cong., 3rd Sess., part 6, p. 6562.

justified the hope to create a new and safe means of transportation for the benefit of mankind."⁴³ Predictably, news of the announcement was poorly received in Berlin. On May 14, Ambassador Wilson cabled Hull:

I feel it incumbent on me to report that feeling is running exceedingly high in German circles among those who are aware of our decision respecting helium.

Thus far restraint has been exercised on the German press and no notice has been published recently regarding helium. There is no way of knowing . . . how long this will last.

Expressions of German opinion both in and out of Government circles . . . are those of surprise and deep resentment over our abrogating what they feel to have been a definite understanding.

Goering is absent in Austria but I am inclined to believe that on his return his resentment and that of almost all Germany will be such that it will be difficult for us to obtain favorable decisions in respect of Austrian obligations, registration of Jewish property, etc.

I suggest that for a period of time until this matter may have been forgotten we would risk direct rebuffs were we to make any requests for favors from the German Government. This last is particularly unfortunate as the police operating in Vienna have taken favorable action for the benefit of numerous persons at our informal suggestion, even when such persons were not American citizens.⁴⁴

43. New York Times, May 12, 1938, p. 12.

44. Foreign Relations of the United States, pp. 461-62.

It had been a year almost to the day that the special Presidential committee, including the Secretary of the Interior, had unanimously agreed that the United States should share its helium with the world and thereby promote international good will.

CHAPTER V

SECRETARY ICKES PREVAILS

Two days after the helium conference of May 11, President Roosevelt told a press conference of his wish that the National Munitions Control Board and the Secretary of the Interior would meet again to consider the sale to the German Zeppelin Company. He explained that he simply wanted the record on the matter to be clear, since the meeting of the previous November attended by proxies had been ruled ineffective.¹ His wish was never carried out, as Secretary Hull, the Chairman of the Munitions Board, considered such a meeting pointless unless Ickes changed his position.² Had another meeting been called, however, Hull and the President would have received a surprise; the five members of the Munitions Board itself would not have been found unanimous for the sale. After the helium conference, Ickes had phoned Treasury Secretary Henry Morgenthau, a Board member, to relate what had taken place. "Morgenthau had told me some time ago that he approved my stand on helium. When I talked to him over the telephone he said that he

1. New York Times, May 14, 1938, p. 4.

2. Ickes, p. 396.

would vote against the export, which means that if the meeting of the Munitions Board is called, instead of there being one in opposition there will be two."³

On May 14, Secretary Ickes had an interview with Dr. Eckener, who was still seeking to accomplish his mission. Ickes held a high opinion of Eckener personally, and the interview was somewhat painful for both men. "He was terribly disappointed and I could understand this because the development of Zeppelins represents his whole life work."⁴ But Ickes remained firm, describing his position to Eckener as one dictated solely by the law. Eckener argued,

and with a good deal of conviction, that a Zeppelin would never be used for military purposes, but I still can't escape the conclusion that it could be so used and if it were found to serve any purpose, Hitler would not hesitate to use it . . . regardless of any obligations that Eckener had entered into or any representations that he himself had made. At the conclusion of our interview Eckener asked me whether he could hope that he might be able to get helium gas in a year or two. In that event he would not disband his crews and experts. He would use hydrogen gas for the training of crews, but he would not carry passengers. I told him that Congress might amend the law or I might have a successor who would have a different point of view. This was all the consolation that I could give him.⁵

Before leaving Washington, Eckener was able to see the President, who managed to hold out a ray of hope. Present with Eckener at this meeting, held May 21, was

3. Ibid.

4. Ibid., p. 399.

5. Ibid.

Dr. Hans H. Dieckhoff, the German Ambassador in Washington. The President was "plainly embarrassed" at having to receive Eckener, according to Dieckhoff, who reported the details of the meeting to Berlin. "He greeted us in an excessively friendly manner and then immediately brought up the helium question."⁶ Dieckhoff related how Roosevelt had expressed his agreement with Eckener that the question had no military significance, and had stated that the helium should be delivered as promised. The President had explained that because the law required the unanimous approval of the six Cabinet officials, and Ickes was opposed, he was powerless to bring this about, to his deep regret. However, the President did say that the matter was not definitely disposed of. It was being considered further, "and there was hope it would be settled to our satisfaction."⁷

There was really little basis for Roosevelt to indicate that the matter was not finally settled. Two days after the announcement that the President could not overrule the Secretary of the Interior, Secretary of State Hull had made one last attempt to accomplish the sale. At the Cabinet meeting of May 13, Hull surprised Ickes by bringing up helium and arguing that the United States was legally

6. U.S. Department of State, Documents on German Foreign Policy, 1918-1945, Series D, 1949, Vol. I, pp. 706-07.

7. Ibid.

obligated to go through with the sale to the Germans. He exhibited the letters of the previous November from the six members of the Cabinet with responsibility for exporting helium, all approving the export allotment to the German Zeppelin Company. Each of the letters had been signed by the appropriate Cabinet chief, or issued at his direction, after the meeting between the Munitions Board and the Secretary of the Interior, which had been attended by their proxies. Hull's reasoning was that these letters constituted an estoppel; that is, by having originally approved the sale, these men had implied that there was no legal barrier to such an action, and could not later decline to sell on the ground that such an action was illegal.⁸ According to Ickes, Hull showed a good deal of emotion about the matter. "His voice was tense and his hands trembled as he read from documents in support of his position."⁹

Ickes took strong issue with Hull's argument. He conceded that while an individual might estop himself, he, as a public official, could not estop the government of the United States. A lively debate ensued, with all those

8. Ickes, p. 396. An estoppel (in law) is defined by Webster as "a preclusion or bar to one's alleging or denying a fact because of his own previous action, allegation or denial by which the contrary has been admitted, implied, or determined." (New International Dictionary of the English Language, Springfield, Mass. G. C. Merriam Co., 1959).

9. Ickes, p. 396.

present except Secretary of the Treasury Morgenthau and Secretary of Labor Frances Perkins joining in. In all, the issue was under discussion for an hour's time. To Ickes' dismay, he found that he stood alone. "Every member of the Cabinet, except Morgenthau and Perkins [who said nothing], either indicated they were in favor of the sale or argued for it. The same is true of the Vice-President."¹⁰

Much of the discussion was between Ickes and the President, and covered the same ground gone over two days earlier. Roosevelt

referred to the fact that both the Army and Navy had gone on record to the effect that the helium involved was not of military importance. I said that I could not put my conscience in the hands of the Army and Navy, and that, unfortunately for the Navy and the Army, their aeronautical experts had testified before the House Committee [on Military Affairs] that this helium was of military importance.

Then the President asked me whether I would be satisfied if he, as Commander in Chief of the Army and Navy, would write me a letter saying that in his judgment this helium was not of military importance, adding that this finding would not be conclusive as to future sales; that if any part of this helium should be used for military purposes, there would be no further sales. At this point, Henry Wallace [Secretary of Agriculture], who is always eager for an advantage over me, called out loudly: "That is a fair compromise, Harold." This did put me in an embarrassing position, but I did not yield my ground. I told the President that I

10. Ibid., pp. 396-97. "The Vice-President" was John N. Garner. Ickes was a little bitter about the silence of Morgenthau, "who had told me so reassuringly over the telephone that he would stand with me on this issue." (Ibid.).

believed that the helium was of military importance. I added that if Congress had wanted the question to be determined by the Army and Navy, or even by the Commander in Chief . . . Congress would have said so in its statute.¹¹

Regardless of how much Roosevelt and Hull might wish to approve the sale, Ickes was in command and would not give an inch. Attorney General Homer Cummings strengthened Ickes' position when he reiterated Solicitor General Jackson's earlier ruling that authority to export helium reposed in the membership of the National Munitions Control Board and in the office of the Secretary of the Interior, and could not be delegated. He did not express an opinion on Hull's theory of estoppel, in effect laying it to rest.¹² The session ended where it had begun, with Hull resolved not to call another meeting on the helium allotment if Ickes persisted in his attitude, and with Ickes as adamant as ever in this attitude. Ickes later commented in his diary: "I cannot see how I can change my mind on this subject. The President is ignoring entirely the public sentiment . . . which is overwhelming--I would say well over ninety per cent of those heard from."¹³

11. Ibid.

12. Ibid. After this Cabinet session, Ickes related what had taken place to Jackson, who had not been present. Jackson explicitly agreed that there had been no estoppel in this case. (Ibid.).

13. Ibid., p. 398.

After the Cabinet session of May 13, the affair was virtually closed. Ickes left Washington on May 18, sailing to Ireland to be married.¹⁴ He was absent for a month, and there was only occasional mention of the helium sale in Administration circles after his return.¹⁵

In spite of the outcome of his trip to Washington, Dr. Eckener clung to the hope of obtaining helium that Roosevelt had held out to him. On July 8, 1938, at a ceremony commemorating the 100th birthday of Count Zeppelin, Eckener told a vast crowd at Friederichshafen that the last word in the matter had not been spoken. "There is no doubt that we shall get helium, because the refusal hits American

14. His marriage attracted more than a little public interest. Ickes was then 64, while Jane Dahlman, his bride, was in her twenties. (See Ickes, pp. 402-04).

15. One of these occasions seemed amusing enough for Ickes to mention in his diary. In telling of his first Cabinet meeting after returning to Washington, he related the following story: "In the absence of [Navy] Secretary Swanson . . . Assistant Secretary [Charles] Edison attended. He told the President that Congress had given the Navy money for one dirigible and the President said he wanted a five-hundred-foot airship built, capable of going five hundred miles off the Atlantic Coast and staying there for five days. When Edison mentioned helium, the President said laughingly: 'Charles, you shouldn't have said anything about helium; the Secretary of the Interior is still on his honeymoon.' I said that it was all right so far as I was concerned. Then Edison went on to say that if the German Zeppelin Company were given helium, it would mean that American officers could be trained in a dirigible. At this point I said: 'Would these men receive military training?' Not aware of the trap, he said: 'Yes.' Whereupon I said: 'That is all I wanted to know.' A great laugh went up from everyone except Hull whose face assumed an unusually sour expression." (p. 414).

airship interests which are dependent upon collaboration with us. Peculiar maneuvers are common in America during election years."¹⁶ The Old Captain went on to ridicule Ickes' action in blocking the sale.

One Cabinet member . . . has suddenly given the opinion that the helium promised us last year has military importance, and therefore cannot be delivered. This seems like a joke, for this gentleman is the Secretary of the Interior, while military experts of the War and Navy Departments have denied its military importance.¹⁷

Eckener's speech became the occasion for a minor tiff between Ickes and Commander Charles Rosendahl, the navy's dirigible expert. Rosendahl had been present in Germany for the Zeppelin commemoration. He later told reporters of his own complete approval of exporting helium to Germany, since in his opinion, airships no longer had military importance in Europe. He went on to describe European aviation leaders as being at a loss to understand American policy in the helium affair.¹⁸ In response to this, Ickes

16. New York Times, July 9, 1938, p. 1. Eckener's reference to "American airship interests" pertained to American Zeppelin Transport, the Zeppelin Company's American agent. On this organization, see above pp. 19-20.

17. New York Times, July 9, 1938, p. 1. Ickes took note of this speech in his diary, and commented that Eckener was acting "with traditional Teutonic stupidity." (p. 420).

18. New York Times, July 19, 1938, p. 10.

told a press conference that after having been "wined and dined" in Germany, Rosendahl was suggesting that a law of Congress be violated.¹⁹ When Rosendahl sought to defend himself by pointing out that General Craig and Admiral Leahy had judged the sale to Germany to be of no military consequence, Ickes observed that Rosendahl himself had recently written a book about airships in which helium was described as a "valuable military asset."²⁰ As for European opinion, Ickes had his own impressions. While on his recent honeymoon he had visited England, and had spoken with a number of people in the Government, including Prime Minister Neville Chamberlain and Foreign Secretary Lord Halifax. Both of these men had made it clear to Ickes by their comments that they approved his stand in the helium affair. And at a dinner party in London attended by Ickes and his bride, the Secretary was asked by Lady Stanley, wife of the Secretary for Home Affairs, if he were the man responsible for denying helium to Germany. "When I answered in the affirmative, she was flatteringly enthusiastic in her comments. She took care to say she should not be talking as frankly as she was, but talk frankly she did notwithstanding."²¹

19. Ibid., July 22, 1938, p. 9.

20. Ibid.

21. Ickes, p. 406.

As the summer of 1938 passed, so did the helium controversy. If Roosevelt had any plans for keeping the issue open, he did not activate them. After all the publicity the issue had received, completion of the sale would have created political problems, as Ickes had been pointing out since April. Early in July, Ickes commented to his diary:

Tom Corcoran thinks that the President won't try to force my hand. He believes that the politics of the situation are with me. If we should now ship helium to Germany, it would offend the Jewish vote. I am beginning to suspect that Tom is right. The President gets back from Gettysburg tonight and he will be leaving Thursday night on his western trip. Surely if he does not do anything about helium in these next three or four days, he won't do it at all.²²

The Germans did not wait to see what would develop. The LZ-130 was refitted for hydrogen that summer, and on September 14, 1938, was officially christened Graf Zeppelin II. The ship made several test flights over Germany in the ensuing months.²³ In the meantime, official United States-German relations were beginning to be seriously strained, due chiefly to Hitler's stepped-up persecution of the Jews, which had begun in April. The American press was becoming highly critical of Hitler by the end of summer, and U. S. Ambassador Hugh Wilson was obliged to register protests against the treatment of Jews on several occasions

22. Ibid., p. 418. "Tom Corcoran" was Thomas G. Corcoran, Reconstruction Finance Corporation counsel and intimate associate of the President.

23. Vaeth, p. 215.

throughout the year. By mid-November, the situation had become so acute that Wilson was recalled to Washington for "consultation." He never returned to his post. American-German relations were conducted through charges d'affaires from that time until the United States' entry into World War II.²⁴ Under such circumstances, and in view of the gathering clouds in Europe, the time had passed forever when the United States might accommodate Nazi Germany.

²⁴. Dr. Hans Dieckhoff, the German Ambassador in Washington, was recalled shortly after Wilson's departure from Berlin, as a countermove. For a survey of the American diplomatic correspondence concerning the anti-Jewish decree of April 26, 1938 and the ensuing events in Berlin, see Foreign Relations of the United States, pp. 365-403.

CHAPTER VI

CONCLUSION

In concluding the story of the Helium Controversy of 1938, it would be well first of all to review its main points. According to Harold Ickes, the central figure in the story, the whole thing was quite simple.

When the Hindenburg was destroyed by fire at Lakehurst, I was in favor of selling helium for use in Zeppelins and thus preventing another such disaster. I supported the bill that was introduced in Congress giving us the right to sell helium to Germany. However, Congress inserted in that bill before passing it a very unusual provision which altered the situation entirely and gave me no option to exercise my own independent judgement. This provision forbade the shipment of helium to any foreign country if it could be accumulated in quantities of military importance. Since this could be done if we shipped helium to Germany, I had no option except to take a stand against this shipment. I confess frankly that when this matter came up for final decision after the rape of Austria by Germany, I was really glad of a good excuse for disapproving this shipment.¹

In looking over the facts, however, it is clear that this account is too simple. Ickes actually raised no objection to the sale until Hitler's seizure of Austria. This was some six months after the new Helium Act became law, four months after the Interior Department had concurred in an export allotment for the German Zeppelin Company, and two

1. Ickes, pp. 427-28.

months after Ickes had approved regulations which would permit sales of helium in vast quantities to foreign countries. During his exchange with Representative John O'Connell in February, Ickes had taken a long look at the particulars of the pending sale to the Germans, and had considerably stiffened the terms. But in doing this, there was no suggestion that the sale should not be made, or that the new terms were designed to prevent its completion. From all indications, it appears that Ickes would have approved the amended purchase contract had Hitler not marched into Austria when he did. His refusal to approve the contract, then, was basically a gesture of defiance toward Hitler and his government, not the result of a legal complication.²

Nevertheless, the Secretary made a plausible case against the sale with his statutory argument. His logic in refusing to accept the theory that helium had military significance for the United States but not for a European nation is not easily overcome. It should be remembered that there was considerable uncertainty in 1938 as to the shape that future instruments of war might take. Ickes' judgment was actually born out within a year of the small controversy, when the German leaders assigned the

2. It is beside the point that the Germans would not have accepted the amended purchase contract if Ickes had approved it. The Secretary did not give them a chance to formally decline his terms.

Graf Zeppelin II a military mission. According to Sir Winston Churchill:

In the spring of 1939, the Graf Zeppelin [III] flew up the east coast of Britain. General Martini, Director-General of Signals in the Luftwaffe, had arranged that she carried special listening equipment to discover the existence of British radar transmissions, if any. The attempt failed, but had her listening equipment been working properly, the Graf Zeppelin ought certainly to have been able to carry back to Germany the information that we had radar, for our radar stations were not only operating at the time, but also detected her movements and divined her intention.³

At the outbreak of World War II the following September, however, Hermann Goering grounded the new Graf. In May of 1940, together with her namesake, she was completely scrapped for aluminum and other metals.⁴ As the experts had predicted, the Germans made little use of any type of lighter-than-air craft during the actual war. Their failure to obtain helium from the United States, then, had no military significance in the long run.⁵

3. Winston S. Churchill, The Second World War; The Gathering Storm (Boston: Houghton Mifflin Company, 1948), Vol. I, p. 156.

4. Vaeth, p. 218.

5. For the Germans, hydrogen was considerably more feasible for military balloons than helium, as it was much cheaper and could be readily manufactured in Germany. German technicians were more familiar with hydrogen than with helium, and despite the Hindenburg disaster they still trusted hydrogen for noncommercial use. Lack of helium would have been no hindrance, then, if they had found balloons or airships useful for military purposes. The United States did find these craft useful, and gave them extensive application in World War II. They were used by the Navy in anti-submarine warfare, aerial reconnaissance, minesweeping and

What was the effect on airship development of Ickes' stand in the helium sale? It would have been most unfortunate if his action had doomed passenger airships to oblivion, as Dr. Eckener had predicted. In truth, however, development of the multi-engine airplane had much more to do with the decline of the airship, as Eckener himself later admitted.⁶

The real significance of Ickes' action in the helium affair lies in what it meant at the time. It was a definite irritant to the German Government, placing "one more obstacle in the already rough path of German-American relations."⁷ It was also a source of emotional satisfaction to many Americans who identified with Ickes in his refusal to

in various other missions. (See the article "Airships", Encyclopedia Britannica, 1955 ed., Vol. I, p. 467).

6. Vaeth, p. 218. Vaeth records the following incident concerning Eckener and his later work: "With both Graf Zeppelins gone . . . Lutschiffbau-Zeppelin turned to other work, including the manufacture of Dornier aircraft subassemblies. About 1942 it was plunged into the midst of the V-2 rocket program The Zeppelin factory was to fabricate midsections and serve as a V-2 assembly center.

Eckener chuckled at this turn of events. 'You know, it tickles me,' he said, 'that I, who was put out of business by the airplane, now find myself helping to produce a new weapon which will eventually put the airplane itself out of business.'" (Ibid., p. 218).

7. Council on Foreign Relations, The United States in World Affairs, 1938, (New York: Harper Brothers, 1939), p. 133. However, the "direct rebuffs" which Ambassador Wilson feared would follow in its wake did not materialize. This was due to the intention of the German government to stay on good terms with the United States for as long as possible. For evidence of this intention in the diplomatic correspondence of the period, see Foreign Relations of the United States, pp. 365-403 and Documents on German Foreign Policy, 1918-1945, pp. 689-706..

accommodate the Nazi Government.⁸ And the controversy was not without significance in the affairs of Roosevelt's Cabinet, causing as it did a serious rift between Ickes and Secretary of State Cordell Hull.

In July of 1938, Ickes commented in his diary:

If I had any doubt of Hull's attitude toward me after the first Cabinet meeting following my return to Washington, this doubt would have been resolved at the last Cabinet meeting, which was held on Wednesday. He studiously cut me. When I entered the Cabinet room as I usually do, my course takes me directly past Hull. On this occasion he avoided looking at me and his avoidance could not be mistaken. Of course, if Hull wants to act like a spoiled child that has been denied a coveted piece of cake simply because he thinks that we ought to sell helium to Nazi Germany, that is his privilege. But the man's stature has shrunk measurably in my eyes.⁹

As a result of the controversy, Ickes developed an unflattering opinion of the Secretary of State. He concluded: "Hull is a little man, just a small mountaineer type, who is governed by his personal feelings and grudges."¹⁰ Hull left no personal record of the controversy in his own Memoirs, but he did leave a more balanced, if suggestive, impression of Ickes:

8. Ickes soon became known in Germany as the chief American agitator against the Third Reich, a reputation which was not entirely undeserved in view of his action in the helium controversy and his speeches of the period. (See the New York Times, November 17, 1938, p. 8, and The Secret Diary, p. 533).

9. Ibid., p. 419.

10. Ibid., p. 418.

Secretary of the Interior Harold Ickes was always quite active and had numerous achievements to his credit. He was often quite far to the left and hence frequently out of line with many of us, and he had an unfortunate approach to problems which not infrequently antagonized others. He was one of three Cabinet members who at times undertook to interfere with other Cabinet functions; but he did not often interfere, and in cases concerning the State Department I credit him with honestly believing that he did so because of overlapping jurisdictions.¹¹

For a time after the helium affair, Ickes heard rumors that Hull was in on a plot to discredit him with the President and force his removal from the Cabinet.¹² This was probably untrue; at any rate, the rift between them was not permanent. By the end of 1938 they were again on polite, if not cordial, terms.¹³

In all, the helium affair provides a good example of Harold Ickes in action. As ever, F.D.R.'s Secretary of the Interior showed himself to be dedicated, tough-minded, and absolutely unyielding when he thought he was right. In attempting to explain Ickes' motives to Berlin at the height of the controversy, German Ambassador Dieckhoff advised: "He is being subjected to pressure by forces which are opposed to the Third Reich and which are horrified at the thought of Zeppelin flights over the United States and the

11. Cordell Hull, The Memoirs of Cordell Hull (New York: The MacMillan Company, 1948), p. 209.

12. Ickes, p. 412.

13. Ibid., p. 558.

resultant great propaganda effect for Germany."¹⁴ Plausible as this might have seemed to the German mind, it is contradicted by all the evidence in the case. The only force which motivated Harold Ickes in the helium controversy was the weight of his own opinion. As usual, this was sufficient.

14. Documents on German Foreign Policy, 1918-1945, p. 707.

APPENDIX

THE HELIUM ACT OF 1937

75TH CONGRESS, 1st SESSION--CH. 895--SEPTEMBER 1, 1937

AN ACT

Authorizing the conservation, production, exploitation, and sale of helium gas, a mineral resource pertaining to the national defense and to the development of commercial aeronautics, authorizing the acquisition, by purchase or otherwise, by the United States of properties for the production of helium gas, and for other purposes.

September 1,
1937
[S.1567]
[Public, No.
411]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act authorizing the conservation, production, and exploitation of helium gas, a mineral resource pertaining to the national defense, and to the development of commercial aeronautics, and for other purposes", approved March 3, 1925, as amended, is amended to read as follows:

Helium gas.
43 Stat. 1110.
50 U.S.C.
§§ 161-166.

"SECTION 1. That for the purpose of conserving, producing, and selling helium gas the Secretary of the Interior, through the Bureau of Mines is authorized:

Powers of Secretary of the Interior.

"(a) To acquire by purchase, lease, or condemnation, lands or interests therein or options thereon, including but not limited to sites, rights-of-way, and oil or gas leases containing obligations to pay rental in advance or damages arising out of the use and operation of such properties; but such lands or interests in lands may be acquired by condemnation only when necessary for the production or conservation of helium to meet the needs of the Army and Navy and other agencies of the Federal Government;

Acquisition of lands or interests, etc.

"(b) To make contracts and agreements (with optional provisions where necessary) for the acquisition, processing, or conservation of helium-bearing gas;

Contracts and agreements.

"(c) To construct or acquire plants, wells, pipe lines, compressor stations, camp buildings, and other facilities, for the production, storage, repurification, transportation, and sale of helium and helium-bearing gas; and to acquire patents or rights therein and reports of experimentation and research used in connection with the properties acquired or useful in the Government's helium operation;

"(d) To dispose by lease or sale of wells, lands, or interests therein, not valuable for helium production; to dispose of oil, gas, and byproducts of helium operations not needed for Government use; and to issue leases to the surface of lands or structures thereon for grazing or other purposes when the same may be done without interfering with the production of helium.

"The Secretary of the Interior is hereby directed, if possible under the terms hereof, to acquire by purchase all properties developed or constructed by private parties prior to the passage of this Act for helium production, such purchase to be at a price or prices recommended to be fair and reasonable by at least two of a board of three appraisers, the members of which shall be selected as follows: One by the Secretary of the Interior, one by the owner of the properties sought to be acquired, and one by the two appraisers so selected. The Secretary of the Interior is authorized to incur obligations and enter into agreements for the purchase of such properties, and every such agreement shall be deemed a contractual obligation of the Government for the payment of the cost thereof, such payment to be made from any appropriations hereafter made for such purpose. Prior to the date of execution of an agreement or agreements for the purchase of such properties, the Government shall not sell helium as authorized in section 3 (b) of this Act: Provided, That the foregoing restriction upon the sale of helium by the Government shall be inoperative in the event that (1) the owner of any such properties shall refuse or neglect to appoint an appraiser

Construction, etc., of plants and other facilities for production of.

Patents, reports, etc.

Disposal of wells, etc.

Oil, gas, and byproducts not needed.

Surface leases for grazing.

Acquisition of existing private-production properties.

Price.

Obligations and agreements.

Sale prior to agreement, restriction.

Proviso.

Refusal or failure of owner to appoint appraiser.

within thirty days after approval of this amendatory Act, or (2) the owner of any such properties having so appointed an appraiser shall refuse or neglect to execute an agreement or agreements for the sale thereof, at the price recommended by at least two members of the board of appraisers, within thirty days after said appraisers shall have recommended such price.

"Any known helium-gas-bearing land on the public domain not covered at the time by leases or permits under the Act of February 25, 1920, entitled 'An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain', as amended, may be reserved for the purposes of this Act, and the United States reserves the ownership and the right to extract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, helium from all gas produced from lands so permitted, leased, or otherwise granted for development: Provided, That in the extraction of helium from gas produced from such lands, it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof.

"SEC. 2. That the Bureau of Mines, acting under the direction of the Secretary of the Interior, is authorized to maintain and operate helium production and repurification plants together with facilities and accessories thereto; to store and care for helium, to conduct exploration for and production of helium on and from the lands acquired, leased, or reserved; and to conduct experimentation and research for the purpose of discovering helium supplies and improving processes and methods of helium production, repurification, storage, and utilization.

"SEC. 3. (a) That the Army and Navy and other agencies of the Federal Government may requisition helium from the Bureau of Mines and make payments therefor from any applicable appropriations

Refusal to execute sale agreement.

Reservation of known helium-bearing land not covered by leases.

41 Stat. 437.

Proviso.
Extraction provisions.

Maintenance and operation of plants.

Experimentation and research.

Requisition of helium by Army and Navy, etc.

by advancing or repaying to and for the use of said Bureau proportionate shares of the expenses incident to the administration, operation, and maintenance of the Government's helium plants and properties.

"(b) That helium not needed for Government use may be produced and sold upon payment in advance in quantities and under regulations approved by the President, for medical, scientific, and commercial use, except that helium may be sold for the inflation of only such airships as operate in or between the United States and its Territories and possessions, or between the United States or its territories and possessions and foreign countries: Provided, That no helium shall be sold for the inflation of any airship operating between two foreign countries notwithstanding such airship may also touch at some point in the United States: Provided further, That such sales of helium shall be at reasonable prices (established by said regulations) based upon the cost of acquiring, developing, maintaining, and operating the Government properties and the payment of interest at a rate of not less than 3 1/2 per centum per annum on capital hereafter expended (except from the special fund established in subsection (c) of section 3 of this Act) for properties, facilities, and helium-bearing gas lands, as are used for such helium production: Provided further, That notwithstanding the foregoing provision helium shall be sold for medicinal purposes at prices which will permit its general use therefor; and such sales of helium shall be upon condition that the Federal Government shall have a right to repurchase helium so sold that has not been lost or dissipated, when needed for Government use, under terms and at prices established by said regulations.

"(c) All moneys received under this Act, including moneys from sale of helium or other products resulting from helium operations (except money received in payment for helium from Government departments or agencies under subsection (a) hereof), shall be credited to a special helium-production

Production and sale.

Inflation of airships.

Provisos.
Restrictions.

Price determination.

Sale for medicinal purposes.

Repurchase.

Moneys received credited to special fund; use of.

Payments in excess of

fund from which purchasers of helium may be reimbursed for payments for helium in excess of deliveries, and the Secretary of the Interior through the Bureau of Mines may draw on said fund to pay expenses of acquiring, administering, operating, maintaining, and developing helium properties. Amounts accumulating in said fund in excess of amounts the Secretary of the Interior deems necessary to assure payment of such expenses shall be deposited in the Treasury to the credit of miscellaneous receipts: Provided, That the Secretary of the Interior shall render to Congress on or before the 1st day of January of each year a report showing the amount of moneys credited to such helium-production fund and the amount of disbursements made therefrom during the preceding fiscal year, and the unexpended and unobligated balances on hand in such fund as of the end of such fiscal year.

"SEC. 4. No helium gas shall be exported from the United States, or from its Territories and possessions, until after application has been made to the Secretary of State and a license authorizing said exportation has been obtained from him on the joint recommendation of all of the members of the National Munitions Control Board and the Secretary of the Interior: Provided, That under regulations governing exportation of helium approved by the National Munitions Control Board and the Secretary of the Interior, export shipments of quantities of helium that are not of military importance as defined in said regulations, and which do not exceed a maximum to be specified therein, may be made under license granted by the Secretary of State without such specific recommendation. Such regulations shall not permit accumulations of helium in quantities of military importance in any foreign country, nor the exportation of helium to countries named in proclamations of the President issued pursuant to section 1 (a) or (c) of the Neutrality Act of May 1, 1937 (Public Resolution Numbered 27 of the Seventy-fifth Congress) while such

deliveries.

Expenses of acquisition, operation, etc.

Excess covered in.

Proviso.
Report to Congress.

Exports; restriction.

Proviso.
Shipments not of military importance.

Accumulations.

Exportation to countries named in proclamations under Neutrality Act.
Ante, p. 121.

proclamations are in effect, and shall require exporters to submit a sworn statement to the Secretary of State showing the quantity, destination, consignee, and intended use of each proposed exportation.

"Any person violating any of the provisions of this section or of the regulations made pursuant hereto, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment; and the Federal courts of the United States are hereby granted jurisdiction to try and determine all questions arising under this section.

"The National Munitions Control Board shall include in its Annual Report to the Congress full information concerning the licenses issued hereunder, together with such information and data collected by the Board as may be considered of value in the determination of questions related to the exportation of helium gas.

"SEC. 5. The Secretary of War and the Secretary of the Navy may each designate representatives to cooperate with the Department of the Interior in carrying out the purposes of this Act, and shall have complete right of access to plants, data, and accounts."

Penal provisions.

National Munitions Control Board.
Information to be included in annual reports.

Cooperation by War and Navy Departments.

Approved, September 1, 1937.

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