BRITISH EMBASSY,

WASHINGTON, D. C.,

April 20th, 1939

No. 453 E

My Lord,

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With reference to my despatch No. 393 E of April 6th I have the honour to inform you that the Senate on April 11th passed the new Emergency Relief Bill in the form in which it had reached them from the House. Instead of providing $150 millions for the Works Progress Administration which was the sum asked for by the President, Congress has only voted a sum of $100 millions, and attempts by New Deal Senators to obtain the larger sum were defeated by 49 votes to 28. This vote shows how completely the President has lost control of the Senate: it means that at least half of his Democratic followers cannot be relied upon to support any progressive legislation. The President himself rather than accept a compromise went right ahead with his proposals and courted the rebuff which he has now received. The so-called economy group in Congress are reported to be aiming at curtailment of the Works Progress Administration and a complete change in the relief system whereby "social security", which really means unemployment insurance, is to be put in the forefront of the campaign against unemployment. The whole subject is being considered in the appropriate Senate Committee and Senator Byrnes is taking the lead there/

The Right Honourable

The Viscount Halifax, K.G.,

etc., etc., etc.

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there on behalf of those who advocate economy.

2. Another minor rebuff for the President has been the withdrawal of Mr. Thomas Amlie's nomination to the Interstate Commerce Commission. The subject was referred to in paragraph 2 of Mr. Mallet's despatch No. 214 of February 16th. Mr. Amlie has been accused of being a Communist, and it became quite clear that the Senate Committee would not recommend the confirmation of his appointment. In these circumstances he asked the President to withdraw his nomination and Mr. Roosevelt did so, at the same time addressing a letter to Mr. Amlie deeply regretting the circumstances and complaining that those who had called Mr. Amlie a Communist were ill serving the democratic form of government. "A quarter of a century ago", said Mr. Roosevelt, "I too was called a Communist and a wild-eyed radical because I fought for factory inspection, for a 54-hour week bill for women and children in industry and similar measures".

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3. The Senate Committee on Education and Labour is conducting public hearings on proposals to amend the National Labor Relations Act, commonly known as the Wagner Act. The hearing is being used by the American Federation of Labor to publicize its disagreement with the Congress of Industrial Organisations and to undermine the two strongest unions affiliated with the latter, namely the United Mine Workers and the Amalgamated Clothing Workers. Senator Wagner himself has defended his Act before the Senate Committee, insisting that its basic principles were sound and that it was promoting industrial peace. While the Act was not perfect, changes should be made only as the need

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for them was clearly evident. In particular he favoured granting the employer the right to petition for an election in his works when rival unions were competing among the employees. The Senator promised that if the need for changes were to be established after a full enquiry he would himself be ready to introduce or support such amendments as seemed necessary. Meanwhile there is no sign yet of the rival unions coming to terms in spite of the President's efforts. In some ways the split is becoming more open than ever. Mr. Homer Martin who broke away recently from the Congresse of Industrial Organisations United Automobile Workers (see paragraph 3 of my despatch No. 336 of March 22nd) has now agreed to sponsor the return of his followers to the American Federation of Labor.

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4. For nearly three weeks there has been a strike of 320,000 bituminous coal miners in the Appalachian fields in consequence of the failure of miners and mine-owners to reach a new agreement after the expiry of the former two-year agreement. The Mayor of New York has taken a hand in trying to settle the strike which threatens to create a coal famine in New York and seriously embarrass all public utilities in that and other cities. The dispute is really narrowed down to the refusal of the owners to agree to the union's demand for elimination of the penalty clause, under which the union is fined from one to two dollars per day per man for strikes called during the term of the agreement. This was a feature of the former agreement which has now expired. The miners maintain that the penalty clause has worked one-sidedly, since the owners have never been subjected to its provisions that they too should be

fined/

fined for lock-outs and violations of the agreement. The owners insist upon retaining the clause as essential for enforcing the agreement and keeping the industry stable. On all other points such as wages, hours and conditions of employment, there has been agreement between owners and workers, and there are many complaints in the press that Mr. John L. Lewis by insisting upon the elimination of the penalty clause is victimizing the consumer for no good reason. The Secretary of Labor has now intervened in the deadlock and the latest reports are hopeful of a settlement. One effect of the strike has been that considerable orders have been given by power plants in New York for Welsh coal, and the "Journal of Commerce" is already speculating how far His Majesty's Government will permit a drain on supplies in Wales at the present time in view of the threatening situation in Europe. The present orders are said to be for between 25 and 45 thousand tons of Welsh coal.

5. The Supreme Court has given an important decision which validates the provisions of the Agricultural Adjustment Act of 1938 setting up a system of rigid control over the marketing of cotton, maize, wheat, tobacco and rice in an attempt to limit production of these crops. In a 6 to 2 decision the Court ruled that the Act is not a statutory plan to control agricultural products, that the system for regulating farm quotas is not uncertain, vague or indefinite, and that it did not constitute taking property without due process of law as applied to crops already in the ground at the time when control over marketing was exercised. In pronouncing this decision the Court did not specifically overrule its previous

opinion/

opinion which invalidated the first Agricultural Adjustment Act in January, 1936. Such a course was not necessary because the present Act rests on a constitutional foundation quite different from that of its predecessor. The Court in 1936 would not permit the regulation of agriculture under the taxing power of Congress, but it has now sanctioned a more drastic type of regulations under the Interstate Commerce clause. The decision nevertheless signifies a great change in the attitude of the Supreme Court and it is noteworthy that both the decisions in 1936 and now were written by Justice Roberts. What the Court has done is to ignore the motives and purposes of the Act of Congress and consider only the constitutional pegs on which such legislation is hung. This would seem to be the proper function of a Supreme Court, but some newspapers have criticized this attitude as destroying the safeguards under the Constitution.

6. Another decision of the Supreme Court on April 17th gave a ruling in the case of a man named Strecker who came to the United States in 1912, was a member of the Communist Party for three months in 1932-1933 and was ordered to be deported in 1934. The Court held that the Department of Labor had no right to deport him in this case. The Department had assumed that a man who was deportable for being at present a member of an organisation advocating the violent overthrow of government was also deportable for past membership in such an organisation. The Strecker decision of the Court holds that it is only present membership of such subversive organisations as the Communist Party which render an alien liable to

deportation/

deportation, and that his past should not be held up against him.

7. Another important case, but this time not in the Supreme Court of the United States, has been the judgment given by the Federal District Court at Philadelphia in favour of the Apex Hosiery Company against the Congress of Industrial Organisations' American Federation of Hosiery Workers. The Company operated a non-union hosiery mill but owing to numerous strikes in 1937 in other unionized mills it became impossible to continue work and the Apex mill had to be closed on account of rioting and demonstrations by union men outside the factory. The Company sued the union for loss of profits and damage to the factory, and the Court has now declared that the union is responsible for damages amounting to $237,000, which the Judge promptly trebled under a provision of the Sherman Act. The defeated union has decided to appeal to the higher courts.

8. I am sending copies of this despatch to the High Commissioner for the United Kingdom in Canada, the Prime Minister of Australia c/o the Dominions Office, and the Department of Overseas Trade.

I have the honour to be,
with the highest respect,
My Lord,
Your Lordship's most obedient,
humble servant,

(SGD) R. C. LINDSAY