WAR CLAIMS AND ENEMY PROPERTY LEGISLATION

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 5028

A BILL TO AMEND THE TRADING WITH THE ENEMY ACT, AS AMENDED, SO AS TO PROVIDE FOR CERTAIN PAYMENTS FOR THE RELIEF AND REHABILITATION OF NEEDY VICTIMS OF NAZI PERSECUTION, AND FOR OTHER PURPOSES

H.R. 7283 and H.R. 7479

BILLS TO AMEND THE WAR CLAIMS ACT OF 1948, AS AMENDED, TO PROVIDE COMPENSATION FOR CERTAIN WORLD WAR II LOSSES

AUGUST 2 AND 3, 1961

Printed for the use of the
Committee on Interstate and Foreign Commerce

U.S. GOVERNMENT PRINTING OFFICE
77891 WASHINGTON : 1961

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WAR CLAIMS AND ENEMY PROPERTY LEGISLATION

WEDNESDAY, AUGUST 2, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE AND FINANCE OF THE
COMMITTEE ON INTERESTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, Hon. Peter F. Mack (chairman of the subcommittee) presiding.

Mr. MACK. This morning the Subcommittee on Commerce and Finance is beginning hearings on a number of bills dealing with war claims and enemy property. First, H.R. 7479, introduced by the chairman of our full committee, the Honorable Oren Harris, at the request of the administration, deals with war claims generally.

Second, H.R. 7283, introduced by myself, which is identical with H.R. 2485, 86th Congress, the general war claims bill passed by the House of Representatives during the 86th Congress.

And H.R. 5028, likewise introduced by myself, which is the so-called heirless property bill and which is identical with a bill, H.R. 6462, 86th Congress, which was passed by the House of Representatives.

The Chair notes with considerable regret that more than 15 years after the close of World War II, American nationals who suffered injury or death during World War II under certain circumstances specified in the legislation, or who suffered property losses as a result of military operations during World War II in certain European countries still have not been compensated for such losses.

Other nations have long since paid their own citizens for similar losses.

This subcommittee held very extensive hearings during the last Congress on bills dealing with war claims and enemy property and reported a bill, H.R. 2485, which passed the House of Representatives, but, unfortunately, the other body failed to take action on this legislation.

The same happened in the case of the heirless property bill.

It is the intention of the Chair that the hearings which we are beginning this morning be considered in the nature of supplementary hearings to the hearings which we held in 1959 on substantially identical bills.

It is the hope of the Chair that witnesses who testified during the earlier hearings will limit themselves to a brief summary of their earlier testimony and to any new matter which they desire to bring to the attention of the subcommittee.

It is the intention of the Chair to consider the 1959 hearing record as a part of this year's hearings, with such additions and modifications as might be made in this year's hearing record.

I think the record which this committee made in 1959 was one of the finest records made by a congressional committee on this subject and we do intend to rely heavily on the record which we made 2 years ago.

It is the hope of the Chair that the hearings this year can be kept to a minimum so that the subcommittee will be in a position to take early action on this important legislation in the expectation that during this Congress, not only the House, but also the other body, will pass legislation in this field and thus bring to an end the long-drawn-out process of providing compensation for our citizens who have been waiting for such a long time to get reimbursed for some of their war losses.

At this point in the record, we will insert copies of H.R. 5028, H.R. 7283, and H.R. 7479. Without objection, we will also insert departmental reports on all bills pending before the committee.

(The bills and reports follow:)

[H.R. 5028, 87th Cong., 1st sess.]

A BILL To amend the Trading With the Enemy Act, as amended, so as to provide for certain payments for the relief and rehabilitation of needy victims of Nazi persecution, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 32(h) of the Trading With the Enemy Act is amended by striking out all that follows the first sentence in the first paragraph down through the third paragraph, and inserting in lieu thereof the following: "In the case of any organization not so designated before the date of enactment of this amendment, such organization may be so designated only if it applies for such designation within three months after such date of enactment.

"The President, or such officer as he may designate, shall, before the expiration of the one-year period which begins on the date of enactment of this amendment, pay out of the War Claims Fund to organizations designated before or after the date of enactment of this amendment pursuant to this subsection the sum of $500,000. If there is more than one such designated organization, such sum shall be allocated among such organizations in the proportions in which the proceeds of heirless property were distributed, pursuant to agreements to which the United States was a party, by the Intergovernmental Committee for Refugees and successor organizations thereto. Acceptance of payment pursuant to this subsection by any such organization shall constitute a full and complete discharge of all claims filed by such organization pursuant to this section, as it existed before the date of enactment of this amendment.

"No payment may be made to any organization designated under this section unless it has given firm and responsible assurances approved by the President that (1) the payment will be used on the basis of need in the rehabilitation and settlement of persons in the United States who suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a)(2) of this section; (2) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed annual report on the use of the payment made to it) and permit such examination of its books as the President, or such officer or agency as he may designate, may from time to time require; and (3) it will not use any part of such payment for legal fees, salaries, or other administrative expenses connected with the filing of claims for such payment or for the recovery of any property or interest under this section."

SEC. 2. The first sentence of section 33 of such Act is amended by striking out all that follows "whichever is later" and inserting a period.

SEC. 3. Section 39 of such Act is amended by adding at the end of subsection (b) the following new sentence: "Immediately upon the enactment of this sentence, the Attorney General shall cover into the Treasury of the United States; for deposit into the War Claims Fund, from property vested in or transferred to him under this Act, the sum of $500,000 to make payments authorized under section 32(h) of this Act."

[H.R. 7283, 87th Cong., 1st sess.]

A BILL To amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the War Claims Act of 1948, as amended, is further amended by inserting after section 1 thereof the following:

"TITLE I"

SEC. 2. The word "Act" wherever it appears in title I except in section 13(a) in reference to the War Claims Act of 1948, as amended, is amended to read "title".

SEC. 3. The War Claims Act of 1948, as amended, is further amended by adding at the end thereof the following:

"TITLE II

"DEFINITIONS

"SEC. 201. As used in this title the term or terms—

"(a) 'Albania', 'Austria', 'Czechoslovakia', 'the Free Territory of Danzig', 'Estonia', 'Germany', 'Grece', 'Latvia', 'Lithuania', 'Poland', and 'Yugoslavia', when used in their respective geographical senses, mean the territorial limits of each such country or free territory, as the case may be, in continental Europe as such limits existed on December 1, 1937.

"(b) 'Commission means the Foreign Claims Settlement Commission of the United States established pursuant to Reorganization Plan Numbered 1 of 1954 (68 Stat. 1279).

"(c) 'National of the United States' means (1) a natural person who is a citizen of the United States, (2) a natural person who, though not a citizen of the United States, owes permanent allegiance to the United States, and (3) a corporation, partnership, unincorporated body, or other entity, organized under the laws of the United States, or of any State or the District of Columbia and in which more than 50 per centum of the outstanding capital stock or other proprietary or similar interest is owned, directly or indirectly, by persons referred to in clauses (1) and (2) of this subsection. It does not include aliens.

"(d) 'Property' means real property and such items of tangible personalty as can be identified and evaluated.

"CLAIMS AUTHORIZED

"SEC. 202. The Commission is directed to receive and to determine according to the provisions of this title the validity and amount of claims of nationals of the United States for—

"(a) physical damage to, or physical loss or destruction of, property located in Albania, Austria, Czechoslovakia, the Free Territory of Danzig, Estonia, Germany, Greece, Latvia, Lithuania, Poland, or Yugoslavia, or in territory which was part of Hungary or Rumania on December 1, 1937, but which was not included in such countries on September 15, 1947, which physical damage, loss, or destruction occurred during the period beginning September 1, 1939, and ending May 8, 1945, or which occurred in the period beginning July 1, 1937, and ending September 2, 1945, to property in territory occupied or attacked by the Imperial Japanese military forces (including territory to which Japan has renounced all right, title, and claim under article 2 of the Treaty of Peace Between the Allied Powers and Japan) except the island of Guam: *Provided*, That claims for loss, damage, or destruction occurring in the Commonwealth of the Philippines shall not be allowed except on behalf of nationals of the United States who have received no payment, and certify under oath or affirmation that they have received no payment, on account of the same loss, damage, or destruction under the Philippine Rehabilitation Act of 1946, whether or not claim was filed thereunder: *Provided further*, That such loss, damage, or destruction must have occurred, as a direct consequence of (1) military operations of war or (2) special measures directed against property in such countries or territories during the respective periods specified, because of the enemy or alleged enemy character of the owner, which property was owned, directly or in-

directly, by a national of the United States at the time of such loss, damage, or destruction;

"(b) damage to, or loss or destruction of, ships or ship cargoes directly or indirectly owned by a national of the United States at the time such damage, loss, or destruction occurred, which was a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; no award shall be made under this subsection in favor of any insurer or reinsurer as assignee or otherwise as successor in interest to the right of the insured;

"(c) Net losses under war-risk insurance or reinsurance policies or contracts, incurred in the settlement of claims for insured losses of ships directly or indirectly owned by a national of the United States at the time of the loss, damage, or destruction of such ships and at the time of the settlement of such claims, which insured losses were a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; such net losses shall be determined by deducting from the aggregate of all payments made in the settlement of such insured losses the aggregate of the net amounts received by any such insurance companies on all policies or contracts of war-risk insurance or reinsurance on ships under which the insured was a national of the United States, after deducting expenses; and

"(d) loss or damage on account of—

"(1) the death of any person who, being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, died or was killed as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be made only to or for the benefit of the following persons in the order of priority named:

"(A) widow or husband if there is no child or children of the deceased;

"(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

"(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

"(D) parents of the deceased (in equal shares) if there is no widow, husband, or child;

"(2) injury or permanent disability sustained by any person, who being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, was injured or permanently disabled as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be payable solely to the person so injured or disabled;

"(3) the loss or destruction, as a result of such action, of property on such vessel, as determined by the Commission to be reasonable, useful, necessary, or proper under the circumstances, which property was owned by any civilian national of the United States who was then a passenger on such vessel; and in the case of the death of any person suffering such loss, awards under this paragraph shall be made only to or for the benefit of the persons designated in paragraph (1) of this subsection and in the order of priority named therein.

"TRANSFERS AND ASSIGNMENTS

"SEC. 203. The transfer or assignment for value of any property forming the subject matter of a claim under subsection (a) or (b) of section 202 subsequent to its damage, loss, or destruction shall not operate to extinguish any claim of the transferor otherwise compensable under either of such subsections. If a claim which could otherwise be allowed under subsection (a) or (b) of section 202 has been assigned for value prior to the enactment of this title, the assignee shall be the party entitled to claim thereunder.

"NATIONALITY OF CLAIMANTS

"SEC. 204. No claim shall be allowed under this title unless the claimant and all predecessors in interest in the claim were, on the date of loss, damage, or destruc-

tion and continuously thereafter until the date of filing claim with the Commission pursuant to this title, nationals of the United States. Where any person who lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country reacquired such citizenship before the date of enactment of this title, then if such individual, but for such marriage would have been a national of the United States at all times on and after the date of such loss, damage, or destruction until the filing of the claim, such individual shall be treated for all purposes of this title as having been a national of the United States at all such times.

"CLAIMS OF STOCKHOLDERS

"SEC. 205. (a) A claim under section 202 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall be denied.

"(b) A claim under section 202 of this title, based upon a direct ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant in any such claim.

"(c) A claim under section 202 of this title, based upon an indirect ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

"(d) Any award on a claim under subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant bears to the entire ownership interest thereof.

"DEDUCTIONS IN MAKING AWARDS

"SEC. 206. (a) In determining the amount of any award there shall be deducted all amounts the claimant has received on account of the same loss or losses with respect to which an award is made under this title.

"(b) Each claim in excess of $10,000 filed under this title by a corporation shall include a statement under oath disclosing the aggregate amount of Federal tax benefits derived by such corporation in any prior taxable year or years resulting from any deduction or deductions claimed for the loss or losses with respect to which such claim is filed. In determining the amount of any award where the allowable loss exceeds $10,000 there shall be deducted an amount equal to the aggregate amount of Federal tax benefits so derived by the claimant. For the purposes of this subsection, such Federal tax benefits shall be the aggregate of the amounts by which the claimant's taxes for such year or years under chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code of 1939, or subtitle A of the Internal Revenue Code of 1954 were decreased with respect to such loss or losses. Any payments made on an award reduced by reason of this subsection shall be exempt from Federal income taxes.

"CONSOLIDATED AWARDS

"SEC. 207. With respect to any claim which, at the time of the award, is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimant therein; and all such claimants shall participate, in proportion to their indicated interests, in the payments authorized by this title in all respects as if the award had been in favor of a single person.

"CERTAIN AWARDS PROHIBITED

"SEC. 208. No award shall be made under this title to or for the benefit of (1) any person who has been convicted of a violation of any provision of chapter 115, title 18, of the United States Code, or of any other crime involving disloyalty to the United States, or (2) any claimant whose claim under this title is within the scope of title III of the International Claims Settlement Act of 1949, as amended (69 Stat. 570).

"CERTIFICATION OF AWARDS

"SEC. 209. The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, for payment out of the War Claims Fund each award made pursuant to section 202.

"CLAIM FILING PERIOD

"SEC. 210. Within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later, the Commission shall give public notice by publication in the Federal Register of the time when, and the limit of time within which claims may be filed, which limit shall not be more than eighteen months after such publication.

"CLAIMS SETTLEMENT PERIOD

"SEC. 211. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than four years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title.

"NOTIFICATION TO CLAIMANTS

"SEC. 212. Each award or denial of a claim by the Commission, whether rendered before or after a hearing, shall include a specific statement of the facts and of the reasoning of the Commission in support of its conclusion.

"PAYMENT OF AWARDS; PRIORITIES; LIMITATIONS

"SEC. 213. (a) The Secretary of the Treasury shall pay out of the War Claims Fund on account of awards certified by the Commission pursuant to this title as follows and in the following order of priority:

"(1) Payment in full of awards made pursuant to section 202(d) (1) and (2).

"(2) Thereafter, payments from time to time on account of the other awards made pursuant to section 202 in an amount which shall be the same for each award or in the amount of the award, whichever is less. The total payment made pursuant to this paragraph on account of any award shall not exceed $10,000.

"(3) Thereafter, payments from time to time on account of the unpaid balance of each remaining award made pursuant to section 202 which shall bear to such unpaid balance the same proportion as the total amount in the War Claims Fund and available for distribution at the time such payments are made bears to the aggregate unpaid balances of all such awards. No payment made pursuant to this paragraph on account of any award shall exceed the unpaid balance of such award.

"(b) Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

"(c) For the purpose of making any such payments, other than under section 213(a)(1), an 'award' shall be deemed to mean the aggregate of all awards certified for payment in favor of the same claimant.

"(d) If any person to whom any payment is to be made pursuant to this title is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over $1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates.

"(e) Payment on account of any award pursuant to this title shall not, unless such payment is for the full amount of the award, extinguish any rights against any foreign government for the unpaid balance of the award.

"(f) Payments made under this section on account of any award for loss, damage, or destruction occurring in the Commonwealth of the Philippines shall not exceed the amount paid on account of awards in the same amount under the Philippine Rehabilitation Act of 1946.

"FEES OF ATTORNEYS AND AGENTS

"SEC. 214. No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"APPLICATION OF OTHER LAWS

"SEC. 215. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of this Act and title I of the International Claims Settlement Act of 1949, as amended, shall apply to this title: The first sentence of subsection (b) of section 2, all of subsection (c) of section 2 and section 11 of title I of this Act, and subsections (c), (d), (e), and (f) of section 7 of the International Claims Settlement Act of 1949, amended.

"TRANSFER OF RECORDS

"SEC. 216. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

"ADMINISTRATIVE EXPENSES

"SEC. 217. There are hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their administrative expenses in carrying out their respective functions under this title."

SEC. 4. (a) Section 2 of the War Claims Act of 1948, as amended, is amended by adding at the end thereof the following:

"(d) The term of office of members of the Foreign Claims Settlement Commission holding office on the date of enactment of this subsection shall expire at the end of the one-year period which begins on such date. The President shall thereafter appoint, by and with the advice and consent of the Senate, three members of the Commission. After the expiration of such one-year period, not more than two members of the Commission shall be of the same political party at any one time. The term of office of each member of the Commission shall be three years, except that of the members first appointed after the end of the one-year period which begins on the date of enactment of this subsection, one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year."

(b) Nothing in this section shall be construed to preclude the reappointment as a member of the Foreign Claims Settlement Commission of any person holding office as a member of such Commission on the date of enactment of this Act.

SEC. 5. Section 39 of the Trading With the Enemy Act is amended by adding at the end thereof the following new subsection:

"(d) The Attorney General is authorized and directed to cover into the Treasury from time to time for deposit in the War Claims Fund such sums from property vested in him or transferred to him under this Act as he shall determine in his discretion not to be required to fulfill obligations imposed under this Act or any other provision of law, and not to be the subject matter of any judicial action or proceeding. There shall be deducted from each such deposit 5 per centum thereof for expenses incurred by the Foreign Claims Settlement Commission and by the Treasury Department in the administration of title II of the War Claims Act of 1948. Such deductions shall be made before any payment is made pursuant to such title. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts."

SEC. 6. If any provision of this Act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of this Act, or the application of such provisions to other persons or circumstances, shall not be affected.

[H.R. 7479, 87th Cong., 1st sess.]

A BILL To amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the War Claims Act of 1948, as amended, is further amended by inserting after section 1 thereof the following:

"TITLE I"

SEC. 2. The word "Act" wherever it appears in title I except in section 13(a) in reference to the War Claims Act of 1948, as amended, is amended to read "title".

SEC. 3. The War Claims Act of 1948, as amended, is further amended by adding at the end thereof the following:

"TITLE II

"DEFINITIONS

"SEC. 201. As used in this title the term or terms—

"(a) 'Albania', 'Austria', 'Czechoslovakia', 'the Free Territory of Danzig', 'Estonia', 'Germany', 'Greece', 'Latvia', 'Lithuania', 'Poland', and 'Yugoslavia', when used in their respective geographical senses, mean the territorial limits of each such country or free territory, as the case may be, in continental Europe as such limits existed on December 1, 1937.

"(b) 'Commission' means the Foreign Claims Settlement Commission of the United States established pursuant to Reorganization Plan Numbered 1 of 1954 (68 Stat. 1279).

"(c) 'National of the United States' means (1) a natural person who is a citizen of the United States, (2) a natural person who, though not a citizen of the United States, owes permanent allegiance to the United States, and (3) a corporation, partnership, unincorporated body, or other entity, organized under the laws of the United States, or of any State or the District of Columbia and in which more than 50 per centum of the outstanding capital stock or other proprietary or similar interest is owned, directly or indirectly, by persons referred to in clauses (1) and (2) of this subsection. It does not include aliens.

"(d) 'Property' means real property and such items of tangible personalty as can be identified and evaluated.

"CLAIMS AUTHORIZED

"SEC. 202. The Commission is directed to receive and to determine according to the provisions of this title the validity and amount of claims of nationals of the United States for—

"(a) physical damage to, or physical loss or destruction of property located in Albania, Austria, Czechoslovakia, the Free City of Danzig, Estonia, Germany, Greece, Latvia, Lithuania, Poland, or Yugoslavia, or in territory which was part of Hungary or Rumania on December 1, 1937, but which was not included in such countries on September 15, 1947, which occurred during the period beginning September 1, 1939, and ending May 8, 1945, or which occurred in the period beginning July 1, 1937, and ending September 2, 1945, to property in territory occupied or attacked by the Imperial Japanese military forces (including territory to which Japan has renounced all right, title, and claim under article 2 of the Treaty of Peace Between the Allied Powers and Japan) except the Commonwealth of the Philippines and the island of Guam: *Provided*, That such damage, loss, or destruction must have occurred, as a direct consequence of (1) military operations of war, or (2) special measures directed against property in such countries or territories, during the respective periods specified, because of the enemy or alleged enemy character of the owner, which property was owned, directly or indirectly, by a national of the United States at the time of such loss, damage, or destruction;

"(b) damage to, or loss or destruction of, ships or ship cargoes directly or indirectly owned by a national of the United States at the time such damage, loss, or destruction occurred, which was a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; no award shall be made under this subsec-

tion in favor of any insurer or reinsurer as assignee or otherwise as successor in interest to the right of the insured;

"(c) net losses under war-risk insurance or reinsurance policies or contracts, incurred in the settlement of claims for insured losses of ships directly or indirectly owned by a national of the United States at the time of the loss, damage, or destruction of such ships and at the time of the settlement of such claims, which insured losses were a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; such net losses shall be determined by deducting from the aggregate of all payments made in the settlement of such insured losses the aggregate of the net amounts received by any such insurance company on all policies or contracts of war-risk insurance or reinsurance on ships under which the insured was a national of the United States, after deducting expenses; and

"(d) loss or damage on account of—

"(1) the death of any person who, being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, died or was killed as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be made only to or for the benefit of the following persons in the order of priority named:

"(A) widow or husband if there is no child or children of the deceased;

"(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

"(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

"(D) parents of the deceased (in equal shares) if there is no widow, husband, or child;

"(2) injury or permanent disability sustained by any person, who being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, was injured or permanently disabled as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be payable solely to the person so injured or disabled;

"(3) the loss or destruction, as a result of such action, of property on such vessel, as determined by the Commission to be reasonable, useful, necessary, or proper under the circumstances, which property was owned by any civilian national of the United States who was then a passenger on such vessel; and in the case of the death of any person suffering such loss, awards under this paragraph shall be made only to or for the benefit of the persons designated in paragraph (1) of this subsection and in the order of priority named therein.

"(e) losses resulting from the removal of industrial or other capital equipment in Germany owned directly or indirectly by a national of the United States on the date of removal and removed for the purpose of reparations including losses from any destruction of property incident to such removal.

"TRANSFERS AND ASSIGNMENTS

"SEC. 203. The transfer or assignment for value of any property forming the subject matter of a claim under subsection (a) or (b) of section 202 subsequent to its damage, loss, or destruction shall not operate to extinguish any claim of the transferor otherwise compensable under either of such subsections. If a claim which could otherwise be allowed under subsection (a) or (b) of section 202 has been assigned for value prior to the enactment of this title, the assignee shall be the party entitled to claim thereunder.

"NATIONALITY OF CLAIMANTS

"SEC. 204. No claim under subsections (a), (b), and (c) of section 202 of this title shall be allowed unless the property upon which it is based was owned by a national or nationals of the United States on the date of loss, damage, destruction, or removal, and continuously thereafter until the date of filing claim with the Commission pursuant to this title. Where any person who lost

United States citizenship solely by reason of marriage to a citizen or subject of a foreign country reacquired such citizenship before the date of enactment of this title, then if such individual, but for such marriage would have been a national of the United States at all times on and after the date of such loss, damage, destruction, or removal until the filing of the claim, such individual shall be treated for all purposes of this title as having been a national of the United States at all such times.

"CLAIMS OF STOCKHOLDERS

"SEC. 205. (a) A claim under section 202 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall be denied.

"(b) A claim under section 202 of this title, based upon a direct ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant in any such claim.

"(c) A claim under section 202 of this title, based upon an indirect ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

"(d) Any award on a claim under subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant bears to the entire ownership interest thereof.

"DEDUCTIONS IN MAKING AWARDS

"SEC. 206. In determining the amount of any award there shall be deducted all amounts the claimant has received on account of the same loss or losses with respect to which an award is made under this title.

"CONSOLIDATED AWARDS

"SEC. 207. With respect to any claim which, at the time of the award, is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimant therein; and all such claimants shall participate, in proportion to their indicated interests, in the payments authorized by this title in all respects as if the award had been in favor of a single person.

"CERTAIN AWARDS PROHIBITED

"SEC. 208. No award shall be made under this title to or for the benefit of (1) any person who has been convicted of a violation of any provision of chapter 115, title 18, of the United States Code, or of any other crime involving disloyalty to the United States, or (2) any claimant whose claim under this title is within the scope of title III of the International Claims Settlement Act of 1949, as amended (69 Stat. 570).

"CERTIFICATION OF AWARDS

"SEC. 209. The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, for payment out of the War Claims Fund each award made pursuant to section 202.

"CLAIM FILING PERIOD

"SEC. 210. Within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later, the Commission shall give public notice by publication in the Federal Register of the time when, and the limit of time within which claims may be filed, which limit shall not be more than eighteen months after such publication.

"CLAIMS SETTLEMENT PERIOD

"SEC. 211. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than five years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title.

"NOTIFICATION TO CLAIMANTS

"SEC. 212. Each award or denial of a claim by the Commission, whether rendered before or after a hearing, shall include a specific statement of the facts and of the reasoning of the Commission in support of its conclusion.

"PAYMENT OF AWARDS; PRIORITIES; LIMITATIONS

"SEC. 213. (a) The Secretary of the Treasury shall pay out of the War Claims Fund on account of awards certified by the Commission pursuant to this title as follows and in the following order of priority:

"(1) Payment in full awards made pursuant to section 202(d) (1) and (2).

"(2) Thereafter, payments from time to time on account of the other awards made pursuant to section 202 in an amount which shall be the same for each award or in the amount of the award, whichever is less. The total payment made pursuant to this paragraph on account of any award shall not exceed $10,000.

"(3) Thereafter, payments from time to time on account of the unpaid balance of each remaining award made pursuant to section 202 which shall bear to such unpaid balance the same proportion as the total amount in the War Claims Fund and available for distribution at the time such payments are made bears to the aggregate unpaid balances of all such awards. No payment made pursuant to this paragraph on account of any award shall exceed the unpaid balance of such award.

"(b) Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

"(c) For the purpose of making any such payments, other than under section 213(a)(1), an 'award' shall be deemed to mean the aggregate of all awards certified for payment in favor of the same claimant.

"(d) If any person to whom any payment is to be made pursuant to this tile is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over $1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates.

"(e) Payment on account of any award pursuant to this title shall not, unless such payment is for the full amount of the award, extinguish any rights against any foreign government for the unpaid balance of the award.

"FEES OF ATTORNEYS AND AGENTS

"SEC. 214. No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"APPLICATION OF OTHER LAWS

"SEC. 215. To the exetnt they are not inconsistent with the provisions of this title, the following provisions of title I of this Act and title I of the International Claims Settlement Act of 1949, as amended, shall apply to this title: The first sentence of subsection (b) of section 2, all of subsection (c) of section 2 and section 11 of title I of this Act, and subsections (c), (d), (e), and (f) of section 7 of the International Claims Settlement Act of 1949, as amended.

"TRANSFER OF RECORDS

"SEC. 216. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

"ADMINISTRATIVE EXPENSES

"SEC. 217. There are hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their administrative expenses in carrying out their respective functions under this title."

SEC. 4. Section 39 of the Trading With the Enemy Act is amended by adding at the end thereof the following new subsection:

"(d) The Attorney General is authorized and directed to cover into the Treasury from time to time for deposit in the War Claims Fund such sums from property vested in him or transferred to him under this Act as he shall determine in his discretion not to be required to fulfill obligations imposed under this Act or any other provision of law, and not to be the subject matter of any judicial action or proceeding. There shall be deducted from each such deposit 5 per centum thereof for expenses incurred by the Foreign Claims Settlement Commission and by the Treasury Department in the administration of title II of the War Claims Act of 1948. Such deductions shall be made before any payment is made pursuant to such title. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts."

SEC. 5. If any provision of this Act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of this Act, or the application of such provisions to other persons or circumstances, shall not be affected.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 4, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will reply to your letter of February 9, 1961, requesting the comments of this office with respect to H.R. 1078, a bill to amend section 9(a) of the Trading With the Enemy Act as amended.

The Department of State, among other agencies, is submitting a report to your committee on this bill in which it points out the bearing of certain litigation in the International Court of Justice on the purposes sought by the bill. Subject to full consideration of the various factors brought out in the State Department report, the Bureau of the Budget would have no objection to the enactment of H.R. 1078.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 11, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 1078, a bill to amend section (9)(a) of the Trading With the Enemy Act, as amended.

Section 9(a) of the Trading With the Enemy Act (40 Stat. 419) permits any person not an enemy or ally of an enemy claiming any interest in any money or other property which may have been seized or paid under the act to institute a suit for the return of such property. Section 9(a) furthermore provides that

upon the institution of such suit, the money or property sought therein shall be retained by the Attorney General until the final terminaion of the suit by judgment or otherwise.

This bill would amend section 9(a) to empower the President in time of war or national emergency, to determine that the interest and welfare of the United States require the sale of any property or interest claimed in any suit filed under this subsection which is pending on or after the date of enactment. Further, upon such determination, the Office of Alien Property would be authorized to sell the property and deposit the proceeds of sale in a special account in the Treasury, to be held in trust pending the entry of final judgment in the suit. Claimants are given the right to elect whether to accept the proceeds or to seek just compensation should they be successful in the suit. If just compensation is sought, the court hearing the pending suit will determine the amount which constitutes just compensation and enter an order therefor which shall be a judgment against the United States payable first from the net proceeds of the sale and the balance, if any, payable in the same manner as are other judgments in cases arising under section 1346 of title 28, United States Code.

Enactment of this legislation will permit the sale of vested shares of stock. The effect of this legislation on the Office of Alien Property will be to permit the sale of the vested shares of stock of General Aniline & Film Corp., notwithstanding the pendency of a suit for it recovery under section 9(a) by a Swiss corporation which claims it is not an enemy or an ally of an enemy and the rightful owner thereof. Approximately 97 percent of the outstanding shares of stock of General Aniline & Film Corp. were vested under the Trading With the Enemy Act by the Alien Property Custodian in 1942, of which 93 percent is claimed by the Swiss company.

General Aniline & Film Corp. has assets valued at approximately $170 million and employs well over 8,000 people. It is engaged in the manufacture and distribution of products in the photographic, dyestuff, and chemical industries. It is one of the leading producers and manufacturers in each of the fields in which it operates. In time of war or national emergency its products are essential to the national defense. A significant portion of its current output goes to defense agencies of the Government.

The litigation concerning the ownership of its stock and the enemy character of the claimant thereto has been pending since 1948. Various aspects of the litigation have been before the Supreme Court of the United States on at least four different occasions. The Government of Switzerland has instituted proceedings against the United States in the International Court of Justice with respect to the retention and possible sale of the stock of General Aniline & Film Corp. The International Court of Justice found the suit by the Swiss could not be maintained because the Swiss company, the plaintiff in the courts of the United States, had not exausted the judicial remedies available to it in the United States. In the United States, on a motion made in 1950, the complaint of the Swiss company was dismissed in 1953 by the district court for failure to comply with a production order, and appeals concerning that dismissal were pending in the appellate courts until 1958. In June 1958 the Supreme Court reversed the order of dismissal and remanded the case to the district court for further proceedings, including trial.

The termination of the litigation in the United States is not in sight. The litigation certainly will continue to be pending for several years. Under existing law, the control of General Aniline & Film Corp. will remain in Government hands during the pendency of that litigation. Under Government management, the company has been unable to raise new capital or pursue executive incentive plans in keeping with that of other large industrial corporations, and consequently it has been difficult for the company to maintain itself in a strong competitive position and to attract outstanding research and executive personnel. Indeed, the injunctive provision of section 9(a), which this bill seeks to amend, has itself been invoked to hamper the company in desirable expansion attempts. A recapitalization plan attempted in 1956 was enjoined at the behest of the plaintiff, and another attempt in 1960 to amend the charter was likewise enjoined on the plaintiff's motion. In each case the court ruled that the proposed company plans would alter the nature of the property which was the subject of the suit in violation of the retention provisions of section 9(a). Accordingly, the Attorney General was enjoined from voting his stock in favor of either of those plans.

The maintenance of General Aniline & Film Corp. as a strong, productive, and competitive organiaztion under the control of nonalien interests is important to the public interest and welfare and would promote the national interest. The proposed legislation would accomplish this, while at the same time safeguarding private interests through its provision for substituting the proceeds of sale or just compensation for the property itself. Also important is the factor that this legislation would make it possible for the Government to rid itself of its unnatural role as owner of a private competitive business.

Accordingly, the Department urges the enactment of H.R. 1078.

There are several technical revisions which the Department would like to suggest be made in the language of this bill:

(1) On line 1 of page 2 and line 10 of page 3 reference is made to the "Alien Property Custodian." Since there is no longer an Alien Property Custodian, it is suggested that following "Custodian" there be added the words "or any successor officer, or agency."

(2) On line 7 of page 2 reference is made to "the proceeds of any such sale." This measure is concerned with the "net proceeds" of sale of vested property, and it is suggested that the word "net" be inserted.

(3) The sentence commencing on line 10 on page 2 and ending on line 21 would be clearer and better understood if the following language should be substituted therefor: "Any recovery of any claimant in any such suit in respect of the property or interest or part thereof so sold shall be satisfied from the net proceeds of such sale unless such claimant, within 60 days after receipt of notice of the amount of net proceeds of sale serves upon the Alien Property Custodian, or any successor officer or agency, and files with the court an election to waive all claims to the net proceeds, or any part thereof, and to claim just compensation instead."

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, August 9, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter asking for the views of this Department on H.R. 1078, a bill to amend section 9(a) of the Trading With the Enemy Act, as amended.

Section 9(a) now provides that if a claimant for the return of property vested by the United States shall file suit for the return of such property, the United States is barred from making any disposition of the property until a final judgment has been entered in the suit. The present bill would provide that the starting of litigation shall not be a bar to the orderly administration of the vested property and would allow the sale of vested property at any time before a final judgment in favor of a claimant.

Under the present provisions of law any claim for the return of vested property, no matter how ill founded, can at any time before sale bring to a standstill the orderly process of liquidating vested property. The enactment of the proposed legislation would avoid the delay and waste involved in the present procedures and would allow disposition of vested property within a reasonable period of time after vesting. It should be noted, furthermore, that the present bill is designed to protect the rights of individuals whose property may have been vested erroneously.

In view of the foregoing, the Treasury Department recommends the enactment of the proposed legislation.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, *General Counsel.*

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., August 9, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request of February 9, 1961, for the views of the Foreign Claims Settlement Commission on the bill, H.R. 1078, entitled "A bill to amend section 9(a) of the Trading With the Enemy Act, as amended." The amendment proposed by the bill relates to the sale of property affected by litigation contemplated by that section in time of war or national emergency and the disposition of the proceeds of any such sale. The bill is identical to H.R. 1345 in the 86th Congress.

The pending bill contains no provisions affecting directly or indirectly the functions of this Commission and would have no effect on any present or prospective claims programs involving this Commission. It pertains solely to the administration of section 9 of the Trading With the Enemy Act by the Office of Alien Property in the Department of Justice.

In view of the foregoing, the Commission takes no position with respect to the enactment of the subject bill, H.R. 1078.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

DEPARTMENT OF STATE,
Washington, August 7, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to H.R. 1078, a bill which is now pending before your committee to amend section (9)(a) of the Trading With the Enemy Act, as amended.

An identical bill was introduced in the 86th Congress, 1st session, as H.R. 404. Similar bills were introduced in the 84th and 85th Congresses. It is our understanding that the principal purpose of H.R. 1078, and the identical preceding bills, is to enable the Attorney General to sell the shares of the General Aniline & Film Corp., which are vested in the United States.

The Department previously has submitted its views to you on this proposed legislation in a letter dated April 16, 1959. A copy of this letter is enclosed.

As this letter points out, the primary concern of the Department of State with regard to this measure (now H.R. 1078) is to bring to the attention of the Congress the probable effect its enactment would have on the *Interhandel* case, an action brought against the United States by the Swiss Government in the International Court of Justice for the restitution of the shares of General Aniline & Film Corp.

The views of the Department expressed in the enclosed letter accurately reflect the views of the Department at this time with respect to H.R. 1078. There has been no change either in the circumstances described in the letter or in the position of the Department.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of February 9, 1961, requesting the views of the Bureau of the Budget on H.R. 1117, to amend the

War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The bill would authorize payment to Americans of certain property damage claims arising out of World War II losses. A bill, having a similar purpose but specific differences, was submitted to the Congress, on behalf of the administration, by the Foreign Claims Settlement Commission and has been introduced as H.R. 7479.

It is recommended that, in lieu of the present measure, the committee give favorable consideration to H.R. 7479, the enactment of which would be consistent with the administration's objectives.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., July 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This refers further to your request for the views of this Commission on the bill, H.R. 1117, 87th Congress, entitled "A bill to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses."

The subject bill deals with the disposition of remaining enemy vested assets and the settlement of certain American World War II damage claims in the European and Pacific theaters. It is similar to a number of bills on this subject pending before your committee including H.R. 7479, which was submitted to the Congress in draft form by this Commission, May 23, 1961, in behalf of the executive branch.

The bill, in general, provides for the use of the proceeds of enemy assets and postwar economic aid repayments from Germany and Japan for settlement of awards on such claims. Eligible claimants would include, not only American citizens at the time of loss, but permanent residents of the United States at that time who had declared their intention of becoming American citizens and who were citizens at the time of filing their claims. Special eligibility requirements are also provided for in the case of a religious society or organization.

As noted, the administration's recommendations with respect to the subjects covered by the present measure are contained in the bill which has been introduced as H.R. 7479. On the basis of the justification advanced in support of that bill in the explanatory letter transmitting it to the Speaker, this Commission recommends the enactment of H.R. 7479 in lieu of the present bill.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 7, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 1117, a bill to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The War Claims Act of 1948, as amended (62 Stat. 1240 et seq.), authorized the Foreign Claims Settlement Commission to satisfy from the proceeds of vested assets certain categories of war damage claims of U.S. nationals arising out of World War II actions.

The bill would enlarge the categories for which war damage claims could be filed and would extend the right to file such claims to persons who were other than U.S. nationals during the war. This measure is similar to a proposal submitted by the Foreign Claims Settlement Commission on behalf of the administration which has been introduced as H.R. 7479, in that the latter would

enlarge the categories of claims which could be filed with the Commission. However, H.R. 1117 differs from H.R. 7479 as to the source of the funds to be used to satisfy these claims and as to the classes of persons who could file such claims.

It is the view of the Department that the provisions of the administration bill, H.R. 7479, are preferable and the Department therefore is unable to recommend the enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, July 31, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 1117, to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The bill would provide for the determination by the Foreign Claims Settlement Commission of claims of American nationals for certain World War II losses and for payment of such claims by the Treasury out of a fund derived from the proceeds of vested assets and from payments to be received by the United States for postwar economic assistance.

The administration has given serious consideration to the problems involved in the settlement of war claims and the disposition of vested assets and has prepared draft legislation on the subject which has been embodied in H.R. 7479 which is now pending before your committee.

H.R. 7479 would provide for the payment of the claims of a smaller class of claimants out of a fund derived only from the proceeds of vested assets.

The Treasury recommends that your committee give favorable consideration to H.R. 7479 in lieu of any other proposed legislation for the settlement of war claims or for the disposition of vested assets.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, *General Counsel.*

DEPARTMENT OF STATE,
Washington, July 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Further reference is made to your letter of February 9, 1961, requesting a report on H.R. 1117, to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

On May 24, 1961, the Foreign Claims Settlement Commission transmitted to the Congress on behalf of the administration a bill, since introduced in the House of Representatives as H.R. 7479, which would provide for the payment of certain World War II claims. Under this bill the war damage claims of U.S. nationals against Germany arising in the European theater and certain claims against Japan arising in the Pacific theater would be paid from the proceeds of vested assets deposited in the war claims fund established pursuant to subsection (a) of section 13 of the War Claims Act of 1948, as amended.

The Department supports the enactment of H.R. 7479, which differs in several important respects from H.R. 1117. Accordingly, the Department is unable to recommend the enactment of H.R. 1117.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 14, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of February 9, 1961, requesting the comments of this office with respect to H.R. 1185, a bill to amend section 32 of the Trading With the Enemy Act of 1917, as amended, so as to permit the return under such section of amounts payable to aliens under trust funds created by American citizens.

For the reasons set out in the report which the Department of Justice is submitting to your committee on this bill, the Bureau of the Budget is unable to recommend its enactment.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 21, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 1185, a bill, to amend section 32 of the Trading With the Enemy Act of 1917, as amended, so as to permit the return under such section of amounts payable to aliens under trust funds created by American citizens.

This bill proposes to amend section 32 of the Trading With the Enemy Act (50 U.S.C. App. sec. 32) to provide for the transfer of certain property vested under that act as the property of nationals of Germany, Australia, or Japan, to persons other than the prevesting owners. It provides that any right vested under that act to payments from a trust established prior to World War II by an American citizen for the benefit of any national of Germany, Australia, or Japan shall be transferred to the American citizen who originally established the trust, or to his successors in interest. Section 2 of the bill further provides that claims for the property may be filed within 3 years from the date of enactment of the bill.

Enactment of this bill would appear to create a serious conflict with the returns authorized under present law. Austrian nationals are generally eligible for return of vested property formerly owned by them under the provisions of section 32 of the Trading With the Enemy Act, including interests in trusts created by American citizens for their benefit. Those nonhostile German and Japanese nationals who fall within the categories of persons eligible for return under section 32 are similarly entitled to return of interests in such trusts, as well as all other property owned by them. In the event that the property subject to claims by any such person eligible for return under existing law consists of an interest in an American trust subject to this bill, the right of the grantor of the trust to apply for that interest would be in direct conflict with the claim of the former owner. The bill makes no provision for resolving such conflict. Furthermore, the bill makes no provision for the cases in which the claims of former owners have already been allowed and returns made to them under existing law.

It is also to be noted that, despite the title and language of the bill, a payment made pursuant to its terms would not actually be a "return" of vested property. The individuals who would be paid under its terms are persons who did not have any legal interest in or right to the property in question prior to its vesting. Moreover, in some instances the provision for payment to successors in interest to a deceased grantor may mean conferring a benefit on heirs of the grantor who were, by the latter's express wish, excluded from participating in the trust.

The value of the assets which ultimately would be transferred under this bill cannot be accurately estimated. The total value of interests in trusts

vested during World War II as the property of German, Austrian, and Japanese nationals is approximately $49 million. The aggregate value of the interests in those of the trusts created by American citizens prior to World War II, which would be returned by this bill, has not been determined but it would undoubtedly constitute a substantial portion of the $49 million total.

Finally, there still to be resolved is the question of the satisfaction of war damage claims of U.S. nationals. The vested assets of enemy nationals comprise the sole source of reparations and in the past consideration has been given to the proposition that the claims of such U.S. nationals first should be satisfied from these assets. Use of the assets for this purpose has been recommended in legislation sponsored by the administration and introduced as H.R. 7479. Enactment of this bill would preempt a substantial amount of the vested assets.

The Department is therefore unable to recommend enactment of H.R. 1185.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

DEPARTMENT OF STATE,
Washington, August 22, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Further reference is made to your request for a report on H.R. 1185, to amend the Trading With the Enemy Act of 1917, as amended. The Department has carefully considered this proposed bill and is now prepared to submit the following comments.

If enacted, the bill would permit the return to citizens of the United States (their legal representatives or successors in interest) who were grantors of trust funds for the benefit of citizens of Germany, Austria, or Japan, of payments from such trust funds which have been vested by the Alien Property Custodian.

The Department of State is not informed with respect to the number of grantors who would benefit or the amount of vested assets which would be returned if this bill were enacted. However, as you know, there is now before the Congress for consideration H.R. 7479, which was transmitted on behalf of the administration by the Foreign Claims Settlement Commission. H.R. 7479, in general, provides for the payment of war damage claims of American nationals against Germany out of the proceeds of former enemy assets which were vested by the United States during World War II. In accordance with agreements and treaties to which the United States is a party, these vested assets are the only funds available for this purpose. Present estimates of the extent of the war damage claims of citizens of the United States against Germany indicate that the funds available for their payment will be insufficient. Enactment of this bill would, therefore, further reduce what is already inadequate. The Department, therefore, does not favor enactment of this legislation.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., August 11, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request of February 9, 1961, for the views of the Foreign Claims Settlement Commission on the bill, H.R. 1185, entitled "A bill to amend section 32 of the Trading With the Enemy Act of 1917, as amended, so as to permit the return under such section of

amounts payable to aliens under trust funds created by American citizens." The subject bill is identical to H.R. 379 in the 86th Congress.

The Trading With the Enemy Act of 1917, as amended, is administered by the Office of Alien Property in the Department of Justice. For that reason the Commission refrains from commenting on the technical aspects of the bill or its specific application beyond observing that it would enlarge the categories of individuals entitled to the return of property vested under that act or to compensation for its taking. It is not a bill of general application but limited to a restricted class of beneficiaries.

Enactment of the subject bill would, however, reduce in some degree assets available for transfer, upon liquidation, by the Attorney General to the Treasury for use in the payment of present or prospective American war claims under the War Claims Act of 1948, as amended, and as certified for payment pursuant to that act by this Commission.

To the extent, therefore, that funds available for American war damage claims, which have remained unsatisfied in whole or in part, would be diminished by enactment of the subject bill, the Commission is opposed to its approval.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of February 9, 1961, inviting the Bureau of the Budget to comment on H.R. 1190, to amend the War Claims Act of 1948 to provide for the payment of benefits under such act to certain citizens and permanent residents of the United States.

This bill is identical to H.R. 2913 of the 86th Congress. In their reports to you on H.R. 1190 those agencies which are most immediately concerned with the provisions of the proposed bill recommend against enactment, for reasons set forth in the reports.

The Bureau of the Budget concurs with the views contained in the reports and recommends that this measure not be enacted.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, August 2, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 1190, to amend the War Claims Act of 1948 to provide for the payment of benefits under such act to certain citizens and permanent residents of the United States.

The bill would add two new sections to the War Claims Act of 1948 to provide for additional classes of claimants compensation for imprisonment by an enemy government, as a prisoner of war or otherwise, and for related injuries. The additional classes include persons who are now citizens and certain resident noncitizens who during the war served in a military service of an allied government. They also include persons imprisoned as civilians who during the war were citizens of the United States or an allied government.

The subject of the proposed legislation is primarily the concern of agencies other than this Department. It should be noted, however, that to authorize additional payments from the war claims fund, which is derived from the proceeds of vested assets, might tend to diminish the amount of such proceeds available for the administration-sponsored claims program contained in H.R.

7479, which is now pending before your committee, to the point where such program could not be carried out without an appropriation.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, *General Counsel.*

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., August 3, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foregin Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This refers further to your request of February 9, 1961, for the views of this Commission on the bill, H.R. 1190, entitled, "A bill to amend the War Claims Act of 1948 to provide for the payment of benefits under such act to certain citizens and permanent residents of the United States." This bill is identical with H.R. 2913, 86th Congress.

The bill would add new sections 18 and 19 to the War Claims Act of 1948, as amended, to extend per diem prisoner-of-war compensation and civilian detention benefits, respectively, to certain citizens of the United States and former nationals and citizens of countries allied with the United States during World War II. The only limitation with respect to the latter group of nationals would be that such individuals shall be American citizens upon enactment of the bill or admitted for permanent residence during or after World War II and lawful residents of the United States on the date of such enactment as defined under the term "national or resident of the United States."

In effect, the bill proposes the determination of claims for detention benefits which fall within four different categories as follows:

(1) Claims of individuals who were held as prisoners of war while serving in the armed forces of governments allied with the United States during World War II (sec. 18).

(2) Claims of individuals who were imprisoned contrary to international law standards during World War II (sec. 18).

(3) Claims of individuals who were interned and forced to perform forced labor or deported and forced to perform forced labor (sec. 19).

(4) Claims of individuals not entitled to benefits under categories (1), (2), or (3) above, would be eligible for benefits under section 4, 5, 15, and 16 of the act in the same amounts and to the same extent as if he had been a citizen of the United States as specified in such sections (sec .19).

Compensation for claims under new section 18 would be payable at the rates prescribed by subsections (b) and (d) of section 6 of the act, while claims under new section 19 would be payable at the rates prescribed in subsection (c) of section 5.

Section 6 of the act pertained to the claims of members of the Armed Forces of the United States who were captured and held as prisoners of war during World War II and the Korean conflict. Benefits were payable at the rate of $1 per day under subsection (b) and $1.50 per day under subsection (d) for each day they were actually held as prisoners under conditions not conforming to the standards prescribed for the treatment of war prisoners in the Geneva Convention of 1929.

Civilian detention benefits under section 5 were payable at the rate of $60 for each calendar month of internment for adults and at the rate of $25 for children age 18 or less. Individuals qualifying as a "civilian American citizen" under section 5 of the act were also eligible to receive death, injury, and disability benefits under sections 4 and 5(f) of the act. The same benefits were extended to civilian American citizens interned during the Korean hostilities.

The bill in its present form would create several administrative problems as well as certan inequities betwen individuals who were citizens of the United States at the time of their capture and who have been heretofore excluded from receiving such benefits, and those citizens of the United States who have already received detention benefits. Similar circumstances would arise between individuals who were citizens of the United States at the time of their capture and individuals who acquired late U.S. nationality.

The attention of the committee is specifically invited to the fact that civilian detention benefits were payable only to individuals who were captured or went into hiding to avoid capture in the limited area of the Philippines, Guam, Wake, and Midway Islands because our Government had encouraged its citizens to work on defense projects there or to continue their normal residence in these areas as a contribution to the morale of the native populations, particularly, in the Philippines.

Provision has never been made for beneficial payments to civilian American citizens interned in places other than the limited areas referred to above. In this connection, it is estimated that approximately 5,000 individuals who were American citizens at the time of their capture were in China and other Pacific areas and in the European theater.

If, under the proposed bill, it was found that they were not detained contrary to international law standards which is a condition of eligibility under the present bill or that they were interned and forced to perform forced labor, such individuals would not necessarily be compensated under subparagraph (g) of proposed section 19, inasmuch as it limits benefits to persons "who would have been entitled to benefits under section * * * 5 * * * in the same amounts and to the same extent as if he had been a citizen of the United States at the time required by such section * * * 5 * * *." The same would apply to persons who acquired late nationality or who have since become residents of the United States. Section 5, of course, limited benefits to persons who were captured in specific islands in the Pacific area.

Inequities may also exist as to the benefits which such persons may receive under sections 18 and 19 of the proposed bill. It is conceivable that an individual may qualify under both sections and, therefore, be eligible to receive benefits at the rate of $2.50 per day ($75 per 30-day month) under section 18 and $60 per month under section 19 for a total of $135 per month. This would be true if the Commission found that such an individual was interned contrary to international law standards or held as a prisoner of war while serving in the armed forces of Allied governments and was also required to perform forced labor. Under the existing law, an individual could not receive prisoner-of-war benefits and civilian detention benefits during the same period of internment. Moreover, detention benefits under the present provisions of the act are not payable for any period of time prior to December 7, 1941. In this connection, there were a number of American citizens serving in the armed forces of governments allied with the United States during World War II who were captured and held as prisoners of war prior to December 7, 1941, but were only eligible to receive benefits if they were held after December 7, 1941. Under the proposed bill, there is no limitation in this respect. Consequently, any person not being an American citizen at the time of his capture, qualifying under the proposed bill, could receive detention benefits from September 1939 until the end of the war.

Because of the many unknown factors involved it is not possible to estimate with any certainty the amount that would be needed for this purpose. In this connection, however, your committee will undoubtedly take note of the tremendous influx of foreign nationals into the United States following the war and continuing to date. In the fiscal years, 1946 through 1958, for example, the Commission is informed that 635,102 aliens were admitted under the Displaced Persons Act (50 U.S.C. app. 1951 et. seq.) and the Refugee Relief Act (50 U.S.C. app. 1971–1971q). Most of these new arrivals are reported to have remained here and a fairly substantial number of them would probably be claimants under the bill.

In the same period, quota immigrants admitted totaled 1,483,647 with approximately 41 percent coming from Germany, Poland, Yugoslavia, and Czechoslovakia.

Of course, it is not known how many of these aliens were interned during the war in a civilian capacity or what percentage represents the reported 1,621,000 members of our Allied forces (excluding the Soviet Union) who were captured and held as military prisoners of war.

No information is available as to the number of persons who may qualify under the bill who have received payments or the extent of such payments, if any, received from foreign governments by reason of the same detention. Persons of German origin and background who were victims of Nazi persecution received some benefits with respect to their internment under the postwar compensation laws of the Federal Republic of Germany. However, the Commission understands that persons of Polish and other national origins were not eligible for

compensation under the German laws. It appears the payment from other governments, if any, have been infinitesimal in this respect.

Moreover, a large number of potential claimants were already in concentration camps at the beginning of World War II due to Nazi persecutions. Personnel in Allied military forces were taken early in the war as a result of the capitulation of such forces to the German armies. Accordingly, it follows that the period of internment of these claimants would be longer than that sustained by American prisoners.

Administrative problems would also be apparent with respect to the establishment of internments by civilians who were interned contrary to international law standards and required to perform forced labor where no corroborating records of evidence are available. It should be noted that the internment of enemy nationals, per se, generally, is not a violation of international law standards. The payment of civilian internee benefits under sections 5 and 16 were not based upon such a contingency. However, the payment of benefits to American military personnel were based upon violations of the standards prescribed in the Geneva Convention of 1929 regarding military prisoners of war.

A rough estimate of the number of claims which may be filed under the bill, if enacted, would range between 25,000 and 50,000 claims. Awards made to civilian American citizens or their survivors during World War II under the act totaled $17,766,715 to 11,485 awardees. Approximately 180,000 former American and Filipino prisoners of war or their survivors received $124 million. If the new claims under the bill amounted to only 15 percent of these totals, the cost would exceed $21 million.

All payments for detention, except those resulting from the Korean hostilities, were made from the war claims fund as established under section 13 of the act. The Korean claims were paid from funds appropriated for this purpose out of the general funds of the Treasury.

The war claims fund consists of transfers and deposits of the net liquidated proceeds of enemy German and Japanese assets vested under the Trading With the Enemy Act, as amended, as authorized by the Congress. Present balances of approximately $300,000 in the fund are wholly insufficient to satisfy the claims proposed under H.R. 1190. Enactment of the bill, therefore, would require an express congressional directive to the Attorney General to transfer to the Treasury, for deposit in the war claims fund, a sufficient amount of liquidated enemy assets to cover the payment of such claims.

Finally, the attention of the committee is invited to the administration's proposal for the use of any remaining proceeds from the liquidation of enemy assets as contained in the general war damage legislation which the Commission transmitted to the Congress in behalf of the executive branch on May 23, 1961, and was introduced as H.R. 7479. It proposes to use the balances available to the war claims fund for payment of World War II damage claims of some 35,000 to 75,000 Americans who were citizens at the time their losses arose. Enactment of H.R. 1190 would seriously impair prospective balances that might be available for the satisfaction of these recommended claims. It is believed this group has far stronger claim to remaining funds than those to whom our Government owed no obligation at the time of their imprisonment. Moreover, in all probability the U.S. escapee programs have already aided many persons in this category in relocating and rehabilitating them.

In view of the foregoing, this Commission is strongly opposed to the enactment of H.R. 1190.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

DEPARTMENT OF STATE,
Washington, August 8, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to the request at the hearing on bills pertaining to war damage claims on August 2, 1961, for a report on H.R. 1190 a bill to amend the War Claims Act of 1948 to provide for the payment of benefits under such act to certain citizens and permanent residents of the United States.

If enacted, H.R. 1190 would amend the War Claims Act of 1948, as amended, by adding two sections numbered 18 and 19 which apparently would authorize the payment of benefits provided in that act to the following categories of persons:

1. Any person serving in the armed forces of any government allied or associated with the United States during the World War II, and held as a prisoner of war, who at the date of enactment of the bill is a national or citizen or lawful resident of the United States.

2. Any person interned in any jail, prison, or concentration camp contrary to international law by any government with which the United States was at war during World War II, who was then a citizen of any government allied with the United States, and who at the date of enactment of the bill is a national or citizen or lawful resident of the United States.

3. Any person forced to perform labor by any government with which the United States was at war during World War II, who was then a citizen of any government allied with the United States, and who at the date of enactment of the bill is a national or citizen or lawful resident of the United States.

4. Any person interned in any jail, prison, or concentration camp contrary to international law by any government with which the United States was at war during World War II, who was then a citizen of the United States.

5. Any person forced to perform labor by any government with which the United States was at war during World War II, who was then a citizen of the United States.

The Department of State is opposed to the enactment of those provisions of sections 18 and 19 of H.R. 1190 which would authorize payment of benefits to persons described in paragraphs 1, 2, and 3 above, for the following reasons, in addition to those set forth in its letter of May 6, 1959, to the Committee on Interstate and Foreign Commerce (p. 240, of report of 1959 hearings).

Subsequent to World War II the Allied Powers determined that they would not seek reparation for war damage from current production in Germany because of the disastrous results of that policy when imposed upon Germany after the First World War. It was decided instead to retain assets of Germany and its nationals which came under the control of the Allied Powers and to use such assets in the various countries concerned for the payment of war damages. This intention is manifest by postwar statements and agreements pertaining to the economic rehabilitation of Germany. For example, the United States and 17 other countries who signed the Paris Reparation Agreement of December 21, 1945, expressly agree that their respective shares of reparations, which in the case of the United States included external assets of Germany and its nationals, "shall be regarded by each of them as covering all its claims and those of its nationals against the former German Government * * * arising out of the war * * *" (art. 2). It was not envisaged and could not have been envisaged that such assets would be used to pay claims of nationals of other countries as would be the case if claims of persons who were not American nationals at the time were paid. Had there been a prompt use of the assets only persons who were nationals of the United States at the time of damage or imprisonment would have shared in them. The great majority of those who have since become citizens would not yet have achieved that status. Thus the claims of those who were not citizens at the time of damage or imprisonment have come into being solely as a result of the delay in using the assets rather than from any preexisting legal or equitable rights the claimants may have had against the United States for compensation. This is not, in the view of the Department of State, a valid reason for permitting such claimants to share in the proceeds of vested assets.

Furthermore, the United States would appear to have an obligation to use the assets for the purpose intended. This obligation has been defined by the Supreme Court of the United States in a leading case on the subject as follows:

"* * * There was, undoubtedly, a moral obligation on the United States to bestow the funds received upon the individuals [i.e., citizens of the United States at the time of loss] who had suffered losses at the hands of the Confederate cruisers; and in this sense all the claims of whatsoever nature were possessed of greater or less pecuniary value. There was at least a possibility of their payment by Congress—an expectancy of interest in the fund, that is, a possibility coupled with an interest" (*Williams* v. *Heard*, 140 U.S. 529, 538 (1890)).

According to current estimates of the balance remaining from the proceeds of vested assets and the amount of war damages sustained by persons who were

American citizens at the time of loss or damage, the balance remaining will be insufficient to pay claims of such persons. Consequently, if additional categories of claims are included, such as claims of persons who were not citizens at the time of damage or imprisonment, the persons who were citizens will receive compensation for only a fraction of their losses and damages. The net effect of this would be that payments to persons who were not citizens at the time of damage would be at the expense of those who were. In the Department's view it would be inequitable to reduce materially the amounts going to U.S. citizens who were entitled to the full protection of the United States at the time of damage in order to benefit individuals who were not then entitled to protection. Stated in another way, it would be unjust to require one group of U.S. citizens, who had the right to the protection of the United States, to give up a large amount of their share of the proceeds of vested assets in order that another group of citizens, who had no right to protection, could receive a share.

It has always been the policy of the U.S. Government not to permit citizens of the United States who did not have that status at the time of loss or damage to share in lump sums paid by foreign governments in settlement of nationalization claims or war damage claims. This policy rests upon the universally accepted principle of international law that a state does not have the right to ask another state to pay compensation to it for losses or damages sustained by persons who were not its citizens at the time of loss or damage. This policy seems never to have been questioned before the enactment of the International Claims Settlement Act of 1949. Ever since the passage of that act, however, bills have been introduced in the Congress to permit persons who were not citizens at the time of loss or damage to receive compensation out of vested Bulgarian, Hungarian, and Rumanian assets for nationalization and war damage in those countries. Bills have also been introduced to permit such persons with nationalization claims against Czechoslovakia to share in the proceeds of the sale of a steel mill of the Czechoslovak Government. Neither the executive branch nor the Congress favored any of such bills and none were enacted with the exception of a bill which permitted a small number of persons who were not citizens at the time of damage to share in the lump sum paid by Italy for war damages outside of Italy. That bill was not opposed because the lump sum paid by Italy exceeded the amount needed to satisfy claims of persons who were citizens at the time of damage.

Bills have also been introduced in prior sessions of the Congress to amend the War Claims Act of 1948 to permit payment of compensation for imprisonment during the war out of vested German and Japanese assets to certain persons who resided in the United States and persons who acquired citizenship after their imprisonment. The Department of State opposed all of such bills on which its comments were requested and none were enacted.

The Department is not aware of a single instance in which persons who were not citizens of the United States at the time of loss, with the exception of the small number who shared in the above-mentioned Italian fund and certain religious organizations in the Philippines which were affiliated with religious organizations in the United States, have been permitted to share in funds paid by foreign governments or funds derived from vested assets either for the taking of property or for war damage. Attention is especially invited in this connection to the fact that persons who were not citizens of the United States at the time of damage did not receive compensation out of vested assets for war damage sustained during the First World War.

In view of the foregoing, payment of any kind of World War II war damage claims of persons who were not citizens of the United States at the time of loss or damage would establish a new and novel precedent. Furthermore, should such a precedent be established, it is believed that those citizens who have not received compensation from any of the above-mentioned funds or treaties, because they were not citizens at the time of loss or damage, would have grounds for insisting upon compensation from some source. In the Department's view it would be undesirable to provide this opportunity.

An argument frequently advanced in favor of payment of war damages of American nationals who had not acquired that status at the time of damage is that since their entry into the United States they have paid taxes. This argument completely overlooks the fact that war damages are not to be paid out of tax revenues, but out of the proceeds of vested assets. Furthermore, since the proceeds are insufficient to pay all claims, payments to persons who were not

citizens at the time of damage or imprisonment would be at the expense of those who were citizens at the time of loss, who are also taxpayers. The net result of this would be that one category of taxpayers would be paying the losses of another category. Thus, payment of taxes would not appear to be a proper criterion for determining eligibility of claimants.

The Department of State is also opposed to the enactment of the provisions of sections 18 and 19 of H.R. 1190 which would authorize payment of benefits to the persons described in paragraphs 4 and 5, above, for the following reasons:

As now enacted, section 5 of the War Claims Act of 1948 authorizes payment of detention benefits to civilian American citizens who were captured by authorities of the Japanese Government on or after December 7, 1941, at Midway, Guam, Wake Island, the Philippine Islands, or on any territory or possession of the United States, or while in transit to or from any such place, or went into hiding at any such place in order to avoid capture or internment by the Japanese. It is understood that these detention benefits were made available to civilian American citizens in recognition of the fact that when the situation in the Far East became ciritical they were encouraged to remain where they were. On the other hand, it is understood that detention benefits were not granted to civilian American citizens who were in other theaters of war because they were given ample warning of the danger of war and advised to return to the United States.

While not unmindful of the sufferings and hardships endured by U.S. citizens who were interned in areas other than the territories and possessions of the United States, it is the view of the Department of State that an undesirable precedent would be established by payment of detention benefits to persons who were warned of the dangers and hardships they might endure and were urged to return to the United States. Furthermore, payments to such persons would be from the proceeds of vested assets. Such assets are believed to be insufficient to pay the property, death, and injury claims which are provided for in the bill recommended by the executive branch of the Government (H.R. 7479). Thus, the payment of this additional category of claims would further reduce what is already inadequate.

For the foregoing reasons, the Department of State is unable to recommend enactment of the proposed bill H.R. 1190.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of February 9, 1961, requesting the comments of this Office with respect to H.R. 1984, a bill to authorize payment of the claim of certain former owners of property vested by the United States, and for other purposes.

For the reasons set out in reports on this bill which the Departments of State and Justice are submitting to your committee, the Bureau of the Budget is opposed to the enactment of H.R. 1984.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., July 18, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request of February 9, 1961, for the views of the Foreign Claims Settlement Commission on the bill,

H.R. 1984, entitled "A bill to authorize payment of the claims of certain former owners of property vested by the United States, and for other purposes." The subject bill is identical to H.R. 4954 in the 86th Congress.

The claims referred to in the bill's title would be those for the return of property vested under the Trading With the Enemy Act, as amended, in the case of individuals who resided in Formosa during World War II, and were employed for 30 years or more by an American firm or business.

The only interest of the Commission in bills of this nature is the effect their enactment would have on balances available for the payment of claims authorized or that may be authorized by amendments to the War Claims Act of 1948, as amended. Such claims are payable from the net liquidated proceeds of assets vested under the Trading With the Enemy Act, as amended, and transferred to the war claims fund.

This Commission does not administer the latter act or any portion thereof, and for that reason cannot comment on the merits of the subject bill. To the extent that its enactment would materially reduce the aggregate of funds available or potentially available for payment of claims under the War Claims Act of 1948, as amended, the Commission would object to its approval.

It is not possible for this Commission to estimate the amounts involved in the subject bill and for that reason takes no position with respect to the enactment of H.R. 1984.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., May 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 1984, a bill to authorize the payment of the claims of certain former owners of property vested by the United States, and for other purposes.

This bill would authorize and direct the Attorney General to return property vested under the Trading With the Enemy Act, as amended (50 U.S.C. App. 1, et seq.) or the net proceeds thereof to "any former individual owner who resided in Formosa during World War II and was employed by an American firm or business for a period of 30 or more years." Any person who collaborated with or aided an enemy country during World War II would be disqualified for return. Claims under the provisions of the bill could be filed within 6 months after its enactment.

It would appear that the only former owner of vested property who would be eligible for a return of property under this bill is one Hong-to Dew, who was the subject of a private relief bill, H.R. 2763, 85th Congress which passed both Houses and was vetoed by President Eisenhower on June 4, 1958 (H. Doc. No. 393). A copy of the President's veto message is attached.

Although H.R. 1984 is drawn in general terms, it will have the effect of a private relief bill. The Department does not know of any justification to accord Mr. Dew preferential treatment over others who have been denied a return of their property and whose circumstances are equally appealing.

Accordingly, the Department of Justice is opposed to the enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

FOR THE RELIEF OF HONG-TO DEW

VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 393)

The Speaker pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith, without my approval, H.R. 2763 "for the relief of Hong-to Dew."

This measure would require the Attorney General to pay Hong-to Dew, a resident of Formosa, the sum of $2,820.32, representing the proceeds of certain property vested as a consequence of World War II pursuant to the Trading With The Enemy Act.

Mr. Dew was born on Formosa in 1892 when it was Chinese territory. In 1895 Formosa was ceded to Japan by China and remained Japanese territory until the end of World War II. Because of his wartime residence on Formosa which was within the territory of a nation with which the United States was at war, the Office of Alien Property in 1950 and 1951 vested 102 shares of Socony-Vacuum Oil Co. stock with Mr. Dew had acquired during the course of his more than 30 years' employment by that company. The sum of $2,820.32 represents the proceeds realized from the sale of these 102 shares by the United States.

Mr. Dew filed a claim for the administrative return of the vested stock in 1951. Under the Trading With the Enemy Act, Mr. Dew could receive a return only if after Pearl Harbor he had been substantially deprived of liberty pursuant to a Japanese law, decree, or regulation discriminating against political, racial, or religious groups. The evidence submitted by Mr. Dew, although showing some mistreatment at the hands of the Japanese officials, failed to meet the requirements of the law. Accordingly, Mr. Dew's claim was denied.

Both the House and Senate reports on the bill recognize that Mr. Dew is not entitled to a return of the vested property under existing law. Relief is recommended notwithstanding this state of the law because of the action taken against Mr. Dew by the Japanese authorities.

In general, the vesting of alien-owned property under the Trading With the Enemy Act resulted from the owner's residence in enemy territory as distinguished from friendly or neutral territory, and not from his citizenship. Accordingly, there were many cases of vesting action, both before and after the cessation of hostilities in World War II, with respect to the property of individuals having nonenemy citizenship who were resident within enemy territory.

As deserving of sympathy as Mr. Dew's case may be, I nevertheless do not find adequate reason or justification for approving H.R. 2763, for to do so would be to grant preferential treatment to Mr. Dew by according to him a benefit which is denied by a statute of general application to others whose circumstance may be equally appealing.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *June 4, 1958.*

DEPARTMENT OF STATE,
Washington, May 10, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. HARRIS: I refer to your letter of February 9, 1961, requesting a report from the Department of State on H.R. 1984, a bill introduced in the House of Representatives to authorize payment of the claims of certain former owners of property vested by the United States, and for other purposes. The Department notes that it has previously submitted a report, dated May 28, 1959, on an identical bill, H.R. 4954, which was introduced in the 86th Congress, 1st session.

It would appear that the primary purpose of the bill is to authorize and direct the Attorney General, in administering section 32 of the Trading With the Enemy Act, as amended, to provide for the return of any vested property to any former individual owner who resided in Formosa during World War II and was employed by an American firm or business for a period of 30 or more years.

Generally, the Department does not favor legislation such as H.R. 1984 which is designed to allow the return of assets vested under the Trading With the Enemy Act to only a very limited category of former owners. In this

particular case, the Department does not believe that there is a valid basis for distinguishing between former owners of vested Japanese property who resided on Formosa during the war and were employed by an American firm for at least 30 years and all other former owners. There are undoubtedly numerous other claimants who can offer equally meritorious circumstances as a basis for a return of their property. Therefore, legislation such as H.R. 1984 could result in charges that the United States was acting unreasonably and unfairly in administering claims for the return of vested property and might also increase the pressure on the Congress to give relief to individual claimants. Legislation providing for the return of vested property to a single or a small number of claimants would also appear to be contrary to the purposes of section 32 of the Trading With the Enemy Act which is to provide for the administrative return of vested property in those cases where the Congress, as a matter of general policy, has authorized return. In the light of these considerations, the Department is opposed to the enactment of H.R. 1984.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 2, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of February 9, 1961, inviting the Bureau of the Budget to comment on H.R. 2454, a bill to amend the War Claims Act of 1948 with reference to claims arising out of the death of members of the Armed Forces of the United States as the result of enemy action after cessation of hostilities.

Enactment of H.R. 2454 would constitute preferential treatment for survivors of those killed subsequent to the end of hostilities compared to those killed prior to that time. Further, administrative difficulties would be involved in establishing the time of death and in developing a standard for determining the size of an award. And, lastly, H.R. 7479, presently before Congress, proposes adjudication of claims which the executive branch believes more meritorious and which could probably exceed the funds that may be made available in the war claims fund, the source of funds for H.R. 7479.

For these reasons, and for the reasons set forth in the reports of the Department of State, the Department of Defense, and the Foreign Claims Settlement Commission, the Bureau of the Budget recommends that H.R. 2454 not be enacted.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., August 3, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request of February 9, 1961, for the views of the Foreign Claims Settlement Commission on the bill, H.R. 2454, enitled "A bill to amend the War Claims Act of 1948 with reference to claims arising out of the death of members of the Armed Forces of the United States as a result of enemy action after cessation of hostilities."

The subject bill is identified with H.R. 11391 in the 86th Congress and H.R. 63 in the 84th Congress. There was no comparable measure introduced in the 85th Congress.

The purpose of the bill is to authorize the Foreign Claims Settlement Commission to receive, adjudicate, according to law, and to provide for the payment of claims in an amount not in excess of $25,000 to specified survivors of any member of the Armed Forces of the United States who died as a result of the violation by any member of the military or naval forces of Germany or Japan of their obligation to cease hostilities in World War II at the time agreed upon. Any claim allowed under the bill, if enacted, would be certified by the Foreign Claims Settlement Commission for payment out of the war claims fund.

The claims which this bill would recognize and compensate, represent war claims arising out of World War II, of a type which the predecessor War Claims Commission discussed in its supplementary report to the Congress dated January 16, 1953. Included in this category of claims involving wrongful death of members of the Armed Forces of the United States are claims for deaths caused after the cessation of hostilities. The Commission concluded that, unfortunate as these deaths are, they must be deemed incident to military service and covered by the compensation law benefits, such as full military pay and allowances, 6 months gratuity pay, and veterans insurance and benefits, in favor of the survivors of those who died while in the service of the country. The Foreign Claims Settlement Commission agrees with this conclusion and in addition believes the bill in its present form is not administratively operable.

In this connection it may be pointed out the the determination of whether members of the military forces of Germany and Japan violated the obligation to cease hostilities, cannot be made without recourse to records which reflect the actual date and hour of death of American servicemen. Existing records are not sufficient for this purpose. For example, on the date hostilities ceased, a number of American troops were out on 8-hour duty tours. Some were later found dead but the date and hour of death is unknown. Death may have occurred either prior to or subsequent to the date and hour upon which hostilities were ordered to be terminated. It would appear to be an impossibility, therefore, in many cases, to determine the exact hour of death regardless of what date or hour was established marking an end of hostilities. Furthermore, in cases where the exact time of death was known, it appears that the bill would be discriminatory in that it would provide extra benefits to the survivor of one serviceman killed, for instance, 5 minutes after the death of another whose death was known to have occurred prior to the established time ending hostilities.

Similarly, the bill would discriminate against the claims of approximately 1,000 American citizens who were disabled or killed as a result of unusual military action during World War II, for which no comparable provision has been made. This includes civilians disabled or killed in the surprise attack on Pearl Harbor, merchant seamen who were not covered by the Merchant Marine Act of 1936, as amended, and other American citizens disabled or killed in other war areas.

In view of the absence of records reflecting the dates and hours of all deaths of former servicemen, and the impossibility of measuring the potential number of claims that would be filed upon enactment of the bill in its present form, estimates of the cost of such a claim program cannot be made.

Finally, the attention of the committee is invited to the administration's proposal for the use of any remaining proceeds from the liquidation of enemy assets as contained in the bill, H.R. 7479. It proposes to use these assets for the payment of World War II damages sustained by over 30,000 Americans who have been waiting more than 16 years to have their claims settled. Enactment of H.R. 2454 could seriously impair prospective balances that might be available for the satisfaction of these recommended claims.

While the Commission sympathizes with the survivors of these former members of the Armed Forces of the United States who were killed subsequent to the cessation of hostilities, it is opposed to the enactment of H.R. 2454, 87th Congress, for reasons stated above.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., August 14, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: Your request for comment on the bill H.R. 2454, a bill to amend the War Claims Act of 1948 with reference to claims arising out of the death of members of the Armed Forces of the United States as the result of enemy action after cessation of hostilities, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The purpose of the bill is to amend the War Claims Act of 1948 by authorizing payments out of the war claims fund in settlement of claims presented by beneficiaries of members of the Armed Forces who met death as a result of a violation by any member of the German or Japanese forces of the obligation to cease hostilities in World War II at the agreed time.

The war claims fund consists of all sums covered into the Treasury pursuant to section 39 of the Trading With the Enemy Act of 1917, as amended (ch. 106, 40 Stat. 411). The report of the Senate Committee on the Judiciary on S. 2315, 83d Congress (Report No. 617, July 23, 1953) states that prior to 1953 a total of $150 million was deposited in the war claims fund, but that this amount was insufficient to pay all claims filed pursuant to the War Claims Act of 1948. The report further states that an additional $60 to $75 million would be required by the War Claims Commission to complete payments to eligible claimants under the War Claims Act. Accordingly, the Congress enacted S. 2315 as Public Law 211 (67 Stat. 461) which authorized the transfer of an additional $75 million to the war claims fund. This sum, it will be noted, was to be used to pay claims presently authorized by the War Claims Act. It follows, therefore, that enactment of subject bill would require the distribution of the sum fixed pursuant to the Trading With the Enemy Act of 1917 to a greater number of claimants than Congress originally intended.

Enactment of H.R. 2454 would result in preferential treatment for the survivors of those who were killed subsequent to the cessation of hostilities in comparison with the survivors of members of the Armed Forces killed in battle prior to that time, since the latter group normally is not entitled to payments from the war claims fund. In addition, in this connection, administrative difficulties would be encountered in establishing the time of death. Several cases are known to exist in which it is alleged that death occurred subsequent to the time agreed upon for the cessation of hostilities but adequate evidence to establish the time of death has not been presented.

It is also noted that subject bill does not exempt these claims from section 2 of the War Claims Act of 1948, which provides that claims must be filed with the Commission in no event later than March 31, 1952.

In view of the foregoing, the Department of the Navy, on behalf of the Department of Defense, recommends against enactment of H.R. 2454.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

W. S. SAMPSON,
Captain, U.S. Navy, Deputy Chief
(For the Secretary of the Navy).

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 4, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 2454, a bill to amend the War Claims

Act of 1948 with reference to claims arising out of the death of members of the Armed Forces of the United States as the result of enemy action after cessation of hostilities.

The bill would add a new subsection (a) to section 6 of the War Claims Act of 1948 (62 Stat. 1244) to authorize the Foreign Claims Settlement Commission to receive, adjudicate according to law, and provide for the payment of any claim filed under this section on account of the death of any member of the Armed Forces as the result of a violation by any member of the military or naval forces of Germany or Japan of the obligation to cease hostilities in World War II at the time agreed upon.

Since the Department of Justice has no responsibility for administering war damage claims, it would prefer to make no recommendation on this measure. Your attention is directed to the fact that the Foreign Claims Settlement Commission on behalf of the administration has proposed legislation, which has been introduced as H.R. 7479 in this Congress, which would authorize the payment from the proceeds of vested assets of war damage claims of American nationals against Germany arising out of World War II actions. The category of claimants covered by H.R. 2454 is not included in the administration's proposal.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

DEPARTMENT OF STATE,
Washington, August 3, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Further reference is made to your letter of February 9, 1961, requesting a report on H.R. 2454, a bill to amend the War Claims Act of 1948 with reference to claims arising out of the death of members of the Armed Forces of the United States as the result of enemy action after cessation of hostilities.

The proposed legislation would amend the War Claims Act of 1948, as amended, by extending the authority of the Foreign Claims Settlement Commission of the United States to receive, adjudicate according to law, and provide for the payment of claims not in excess of $25,000 to specified beneficiaries on account of the death of any member of the Armed Forces of the United States as a result of a violation by any member of the military or naval forces of Germany or Japan of the obligation to cease hostilities in World War II at the agreed time. It is further proposed that any claim allowed under this bill would be certified by the Commission for payment out of the war claims fund.

The category of claims covered by the bill was discussed by the former War Claims Commission in its final and supplementary report to the Congress (H. Doc. No. 67, 83d Cong., 1st sess.). You will recall that section 8 of the War Claims Act of 1948 required that Commission to prepare a report for submission to the Congress with recommendations concerning war claims not authorized to be paid under existing legislation. With respect to the claims comprehended by H.R. 2454, the Commission's report (p. 94) reads as follows:

"The Commission has considered the claims for wrongful death of members of the Armed Forces of the United States. Included in this category are claims for the deaths at Pearl Harbor and for the deaths caused after the cessation of hostilities. The Commission has concluded that, unfortunate as these deaths are, they must be deemed incident to military service and covered by the compensation laws in favor of the survivors of those who died while in the service of the country."

It may also be pointed out that the proposed bill would appear to be discriminatory in that it would provide preferential treatment for survivors of members of the Armed Forces killed after the cessation of hostilities as compared to survivors of those killed prior to that time.

In view of the foregoing, the Department is unable to recommend the enactment of the proposed bill.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of March 6, 1961, requesting the views of this office with respect to H.R. 3866, a bill to amend the Trading With the Enemy Act, as amended.

For the reasons set out in reports on this bill which are being transmitted to you by the State and Justice Departments and the Foreign Claims Settlement Commission, the Bureau of the Budget is strongly opposed to the enactment of H.R. 3866.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 3, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 3866, a bill to amend the Trading With the Enemy Act, as amended.

The second proviso of section 32(a)(2)(D) of the Trading With the Enemy Act, as amended (50 U.S.C. App. 32(a)(2)(D)) presently authorizes the return of vested property to (1) individuals who at all times after December 7, 1941, were citizens of the United States, and (2) certain individuals who, having lost U.S. citizenship by marriage to a foreign national, reacquired such citizenship prior to the date of enactment of the proviso, September 29, 1950. The third proviso of section 32(a)(2)(D) limits the total of the returns under the second proviso to property with an aggregate book value of $9 million. Book values are those reflected on the records of the Office of Alien Property as of the time of vesting.

The bill would amend the second proviso to authorize returns to a new category of individuals—i.e., individuals who have acquired American citizenship since the dates of vesting of their property. This category would include former enemy nationals not resident in the United States during World War II who came to this country and acquired U.S. citizenship after the war. Persons in this category would have 1 year from the date of enactment of the bill within which to file claims for return.

The subject bill would have no effect on the third proviso of section 32(a)(2)(D) and claims allowed under the bill would have to come within the overall $9 million figure set forth in the third proviso. The total book value of all claims filed under that section is approximately $8,350,000. It is not possible to estimate how many of these claims will be allowed or the book value of claims which would be filed for return by the proposed new category of persons. However, it is possible that the $9 million figure would not cover all existing claims and proposed claims under this bill.

Under the existing section 32, a return of property can be made to persons who owed complete or at least divided allegiance to the United States during the war. H.R. 3866 would extend the benefits of section 32 to persons who had no allegiance to the United States until after the war. Former enemy owners of vested property who have been fortunate enough to be admitted to this country under circumstances permitting their naturalization would be rewarded by obtaining a

return of their property. On the other hand, former enemy owners of vested property who have not emigrated or have migrated to countries other than the United States would not be able to secure a return.

Another consideration is that there is still unresolved the problem of war damage claims of American nationals against Germany arising out of World War II. The use of vested assets to pay such claims has been recommended by the Foreign Claims Settlement Commission on behalf of the administration in proposed legislation which has been introduced as H.R. 7479.

The Department, therefore, is unable to recommend enactment of H.R. 3866.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

DEPARTMENT OF STATE,
Washington, June 22, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: By letter dated March 9, 1961, the Department made an interim reply to your request of March 6, 1961, for a report on H.R. 3866, to amend the Trading With the Enemy Act, as amended. The proposed bill has been carefully considered within the Department, and I am pleased to submit to you the following comments thereon.

It would appear that the primary purpose of this bill is to amend section 32(a)(2)(D) of the Trading With the Enemy Act, as amended, to permit return of vested assets to the former owners who have since the vesting acquired U.S. citizenship.

In accordance with agreements and treaties to which the United States is a party, the proceeds of the vested assets derived from former enemy sources constitute the only funds which are available for the payment of certain categories of war claims of U.S. citizens. Compensation has not yet been provided for all of these categories. For this reason the Foreign Claims Settlement Commission, acting on behalf of the administration, on May 24, 1961, transmitted to the Congress a draft of proposed legislation to encompass these categories. Preliminary estimates of the extent of these unsatisfied war claims indicate that the funds available for their payment—the proceeds of the vested assets—may be wholly inadequate for this purpose. Consequently it is the Department's view that it would be inappropriate at this time to take any action which would further reduce the funds available to provide compensation for war losses to claimants who were U.S. citizens at all material times.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., June 23, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request of March 6, 1961, for the views of the Foreign Claims Settlement Commission on the bill, H.R. 3866, to amend the Trading With the Enemy Act, as amended. The bill is identical to H.R. 4484 in the 86th Congress, and similar to H.R. 2537 in the 85th Congress and H.R. 2102 in the 84th Congress, in providing for a new category of individuals eligible to file for the return of assets vested under that act.

The subject bill would broaden the categories of permissible returns to include individuals who, since their property or interests were vested in, or transferred to the United States, had acquired U.S. citizenship.

It is the Commission's view that payment should first be provided for the war damage claims of those who were U.S. nationals at the time of their losses

before new classes of claimants against the vested assets are considered. For this reason, the Commission is opposed to the enactment of H.R. 3866.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of March 6, 1961, requesting the views of the Bureau of the Budget on H.R. 3943, a bill to provide that members of the Armed Forces shall be paid compensation at the rate of $2.50 per day for each day spent in hiding during World War II or the Korean conflict to evade capture by the enemy.

As in past years with respect to similar bills, the Foreign Claims Settlement Commission and the Department of Defense are submitting reports to your committee opposing the enactment of this bill. For the reasons set out in those reports, the Bureau of the Budget is also opposed to the enactment of H.R. 3943.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., August 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request for the views of the Foreign Claims Settlement Commission on the bill, H.R. 3943, 87th Congress, entitled, "A bill to provide that members of the Armed Forces shall be paid compensation at the rate of $2.50 per day for each day spent in hiding during World War II or the Korean conflict to evade capture by the enemy." This bill is identical with H.R. 1783 and H.R. 3873 in the 86th Congress. Substantially identical bills were introduced in the 85th, 84th, and 83d Congresses.

The purpose of the subject bill is to amend section 6 of the War Claims Act of 1948, as amended, so as to place on an equal footing, for per diem prisoner of war compensation purposes, American military personnel who were bona fide prisoners of war in World War II or the Korean conflict and those who were not captured but were carried in a "missing in action" status and allegedly threatened with capture while "in hiding" to avoid such capture. Under the bill, if enacted, these individuals would be treated as if captured and thereby become entitled to a per diem payment of $2.50, as in the case of bona fide prisoners of war, for each day they concealed themselves to prevent capture or recapture.

The Commission has consistently opposed enactment of identical legislative proposals in the past and is presently opposed to enactment. In previous reports to your committee, the Commission has pointed out, among other things, that section 6 of the War Claims Act, in providing the $2.50 per diem compensation to American military prisoners of war, was based upon the violation of the standards set up in the Geneva Convention of July 27, 1929, governing the treatment of prisoners of war. Claimants were paid under the section because they came within the purview of that convention. The same cannot be said for those who, although possibly behind enemy lines, were not restricted in their movements by any detaining force. Enactment of the subject bill would, therefore, constitute a serious deviation from the sound concept underlying section 6 of the War Claims Act.

There are, of course, equally sound reasons for opposition to enactment of any such proposal which were discussed at some length in previous reports and need not be repeated here. They relate chiefly to the great difficulty of establishing the fact of being "in hiding" or "in immediate danger of capture," the fact of concealment and the actual number of days of concealment. These problems

were not present in the case of prisoners of war where records existed and allegations by the claimant could be verified.

The Commission cannot estimate with any certainty how many individuals would benefit by enactment of the subject bill. The number might run into several thousand. There could be as many as 100,000 claims filed, but under the bill as presently written there is no basis for any estimate of the number whose claims could be proven sufficiently to support an award.

In view of the foregoing the Commission again registers its opposition to enactment of legislation of this type and particularly H.R. 3943.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., August 14, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: Your request for comment on the bill, H.R. 3943, to provide that members of the Armed Forces shall be paid compensation at the rate of $2.50 per day for each day spent in hiding during World War II or the Korean conflict to evade capture by the enemy, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The purpose of this measure is to amend the War Claims Act of 1948 to authorize payment from the war claims fund to a member or former member of the Armed Forces of compensation at the rate of $2.50 per day for each day during World War II or during the Korean conflict on which he concealed himself to prevent capture or recapture by the enemy, if such concealment exceeded 10 days.

The War Claims Act of 1948 authorized claims by American civilians and military personnel against the war claims fund. The claims of civilians were based on the theory of "detention" of the person by the enemy and could be filed either where the person had been interned or went into hiding to evade capture. Claims of military personnel were authorized only in the event of capture and the subsequent violation of their rights under the Geneva Convention by their captors. The distinction between the two groups relative to "hiding from the enemy" seems to be a valid one, not only because of the difference in theory of their claims, but also because military personnel are required to assume greater risks than civilians and in most cases would be expected to fight until death or capture.

The bill, if enacted, would set a precedent which in all fairness should be applied to any future wars in which the United States might be involved. Should such a precedent result in permanent legislation applicable to all wars, a monetary incentive would be created for members of the Armed Forces to desert or absent themselves without authority to avoid the danger of combat and then claim that they were in hiding to prevent capture. In this event, the determination of which claims are bona fide will be most difficult. Furthermore, the lapse of time since World War II will create serious evidentiary problems in the administration of the law.

Rather than enlarge the benefits for military personnel under the War Claims Act of 1948 in the manner provided in the bill, it is believed that benefits should be restricted to those for prisoners of war which are based on violation of rights provided by the Geneva Convention.

In view of the foregoing, the Department of the Navy, on behalf of the Department of Defense, opposes the enactment of H.R. 3943.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

W. S. SAMPSON,
Captain, U.S. Navy, Deputy Chief
(For the Secretary of the Navy).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 2, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of March 16, 1961, requesting the views of the Bureau of the Budget on H.R. 4753, to amend section 5 of the War Claims Act of 1948 to provide detention and other benefits thereunder to certain Guamanians killed or captured by the Japanese at Wake Island.

For the reasons set forth in the reports of the Department of the Interior and the Foreign Claims Settlement Commission, and because equity seems to dictate that these Guamanians claimants be eligible for reimbursement just as those covered under the Guam Relief Act were, the Bureau of the Budget has no objection to the enactment of H.R. 4753.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 9, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. HARRIS: Your committee has requested a report on H.R. 4753, a bill to amend section 5 of the War Claims Act of 1948 to provide detention and other benefits thereunder to certain Guamanians killed or captured by the Japanese at Wake Island.

It is recommended that the bill be enacted.

The purpose of H.R. 4753 is to extend to Guamanians captured on Wake Island by the Japanese the provisions generally of section 5 of the War Claims Act of 1948 (50 U.S.C. 2004), as amended, which provides benefits for the detention, injury, disability, or death of those who were captured by the Japanese at Midway, Guam, Wake Island, the Philippines, or on any territory or possession of the United States, or while in transit to or from any such place, or went into hiding at any such place in order to avoid capture or internment.

Under existing law, these benefits are limited to civilian American citizens. Guamanians, although now generally American citizens by virtue of the Guam Organic Act which was enacted in 1950, were during World War II not citizens but nationals. Thus, Guamanians generally have been deprived of the benefits of the War Claims Act.

Existing law is based upon the philosophy of recognizing as valid the claims of those civilian American citizens abroad who were captured in areas where they had been encouraged to remain by their Government, notwithstanding the possibility of an outbreak of war. A sharp distinction is thus drawn, which excludes recognition of claims of American citizens away from their home territory who were captured in areas aside from those named above, i.e., in areas which they had been warned to leave by their Government.

We believe the claims of the Guamanians captured on Wake Islands are entitled to recognition as being in general accord with the philosophy described above. These Guamanians were away from their home territory, and were encouraged to remain at their jobs on Wake Island, notwithstanding the dangerous international situation. They were captured and detained by the Japanese. Although they were not at that time citizens of the United States, they were American nationals, and have since been granted full citizenship. Recognition of their claim will in no sense constitute a precedent for recognition of the claims of any other group of claimants. The number of claims to be recognized by this legislation is not believed to exceed 40 or 50.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administrations' program.

Sincerely yours,

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., August 31, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: Further reference is made to your request of March 16, 1961, requesting a report by the Foreign Claims Settlement Commission on H.R. 4753, 87th Congress, a bill to amend section 5 of the War Claims Act of 1948 to provide detention and other benefits thereunder to certain Guamanians killed or captured by the Japanese at Wake Island. This bill is identical to H.R. 6392, 86th Congress.

Under the bill, death, detention, and disability benefits under section 5 of the War Claims Act, authorized in the case of civilian American citizens killed or captured by the Japanese during World War II at Wake Island would be extended to Guamanians captured there or to the eligible survivors of Guamanians killed at Wake Island. The term "Guamanian" is not defined in the bill.

The Commission is informed that 45 Guamanians at Wake Island were employed by contractors with the United States or otherwise engaged there in essential defense activities. The Commission is further informed that of these 45, 10 were killed in the defense of Wake Island and 2 died subsequently while interned. The remaining 33 Guamanians who were captured are said to have been interned for a period of 45 months. If this is true, they would be eligible for detention benefits, if the bill becomes law, at the rate of $60 for each calendar month of internment under section 5 (a) to (e) of the War Claims Act of 1948, as amended.

The Commission is unable to estimate the amounts of awards with respect to injury or death claims which may be filed with the Bureau of Employees' Compensation, Department of Labor under subsection (f) of section 5 of the act. A rough estimate of the amount necessary to pay all claims proposed by the bill plus administrative expenses, is $184,000. Payments would be made from the war claims fund. This amount is presently available in the fund.

Persons covered under this legislation were serving the cause of the United States at the request of the Government of the United States, or of contractors with the United States, away from their homes in areas where invasion by the enemy was expected. Unlike the case of Americans in Europe, they were not advised to leave the area because of the imminence of war. Their presence was vital to the defense of Wake Island. Under the circumstances, it would be inequitable to deny these few Guamanians the benefits of such remedial legislation.

Certain relief was afforded permanent residents of Guam, including claims for death and personal injury, under the Guam Relief Act, Public Law 224, 79th Congress, approved November 15, 1945. Claims not arising in Guam were excluded from this legislation. Accordingly, it appears that the bill would provide benefits to persons who have not been compensated under any previous law.

In view of the foregoing, the Commission favors the enactment of the bill, H.R. 4753.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

DEPARTMENT OF STATE,
Washington, August 1, 1961.

The Honorable OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: I refer again to your letter of March 16, 1961, requesting a report on H.R. 4753, a bill to amend section 5 of the War Claims Act of 1948 to provide detention and other benefits thereunder to certain Guamanians killed or captured by the Japanese at Wake Island.

The proposed legislation would amend subsections (a) through (f) of section 5 of the War Claims Act of 1948, as amended, by extending the benefits provided therein to Guamanians killed or captured by the Imperial Japanese Government on or after December 7, 1941, at Wake Island. Under section 5 of the act, detention, injury, disability, and death benefits were limited to civilian American citizens who were captured by Japanese military authorities on or after December 7, 1941, at Midway, Guam, Wake Island, the Philippines, or on any territory or

possession of the United States, or while in transit to or from any such place, or went into hiding at any such place in order to avoid capture or internment.

The Department understands that Guamanians killed or captured at Wake Island were deprived of benefits provided by section 5 of the War Claims Act since they were not at that time citizens of the United States. They were American nationals. Since then, however, Guamanians did acquire U.S. citizenship status by vrtue of the Organic Act of Guam, approved August 1, 1950.

Since the proposed legislation relates principally to activities of the Foreign Claims Settlement Commission of the United States, and since the Department does not have sufficent information regarding the facts and circumstances of the claims of Guamanians killed or captured at Wake Island, the Department is not in a position to comment on the merits of the bill.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 3, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of March 16, 1961, requesting the views of the Bureau of the Budget on H.R. 4754, to amend section 4 of the War Claims Act of 1948 to provide benefits to certain contractors' employees.

This bill is identical to H.R. 6391 of the 86th Congress. As was pointed out in reports on that bill the measure is not acceptable from a technical point of view, as it has been drafted with a much broader scope than its apparent purpose warrants. It would cover any American citizen wherever captured by the Imperial Japanese Government on or after December 7, 1941, and would provide all of the benefits of the War Hazards Act.

The Bureau also objects in the matter of substance, for the reason that the benefits under the bill do not appear justified. The benefits of section 4(a) of the War Claims Act were specifically intended for those employees who were sent from their home environment to locations where they were exposed to capture and detention solely because of their work assignments. It should also be noted that certain relief has already been provided for the residents of Guam by the act of November 15, 1945 (59 Stat. 582). This act, which was administered by the Navy, provided for the settlement of meritorious claims, including those for death or personal injury.

In view of these considerations and of the opinions expressed by the Foreign Claims Settlement Commission in their report on H.R. 4754, the Bureau of the Budget recommends against enactment of the measure.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., August 15, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington D.C.

MY DEAR MR. CHAIRMAN: Your request for comment on H.R. 4754, a bill to amend section 4 of the War Claims Act of 1948 to provide benefits to certain contractors' employees, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The purpose of H.R. 4754 is to amend section 4 of the War Claims Act of 1948 so that Guamanians and certain civilian American citizens employed by a contractor with the United States on Guam on December 7, 1941, would be entitled to the same benefits presently authorized for the wartime injury, death, or enemy detention of certain oversea employees of contractors of the United States.

At the time Guam became subject to enemy action during World War II, three categories of persons were employed on Guam as workers on defense contracts. The first two categories included native Guamanians and civilian American citizens who were in the nature of permanent residents of Guam. The third category included civilian American citizens who came to Guam solely to work on defense contracts. Under present law, only personnel in the third category are entitled to benefits under the War Claims Act of 1948. Personnel in the first two categories who were subjected to enemy action may have been so subjected because of their citizenship and residence or because of the nature of their employment. Consequently, the equity of the claims of personnel in the first two categories when contrasted with the equity of the claims of the personnel in the third category may be less. In any event, the first-mentioned equity is not clearly definable.

Whether benefits under the War Claims Act of 1948 and the War Risk Hazards Act should be extended to employees who were not residing in the area where they became subject to enemy action solely because of their employment is considered to involve a question of public policy not within the cognizances of the Department of Defense. For this reason, the Department of the Navy, on behalf of the Department of Defense, respectfully defers to the will of the Congress on the merits of the bill.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

For the Secretary of the Navy.

Sincerely yours,

W. S. SAMPSON,
Captain, U.S. Navy, Deputy Chief.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., August 2, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This refers further to your request for the views of this Commission on the bill H.R. 4754, entitled "A bill to amend section 4 of the War Claims Act of 1948 to provide benefits to certain contractor's employees." This bill is identical to H.R. 6391, 86th Congress, and H.R. 7358, 85th Congress. It is substantially identical to H.R. 6938, 86th Congress.

Section 4 of that act, and particularly subsection (a) thereof which the subject bill would amend, authorizes payments to former employees of contractors of the United States during World War II for back pay, subject to certain deductions for amounts credited or received directly from the contractor who employed them. Section 4 of the act came within the exclusive jurisdiction initially of the Federal Security Administrator and subsequently the Bureau of Employees' Compensation in the Department of Labor. This Commission has had no experience in the administration of section 4 of the act and cannot appropriately comment on the detailed effect of the enactment of the subject bill.

On the other hand, it would appear on the surface that the bill proposes to give all Guamanians employed on Guam by contractors with the United States benefits equal to those awarded American citizens who were hired in the United States by such contractors and sent to various territories and possessions of the United States to perform work on defense bases. It further appears that the bill would include "civilian American citizens" as defined in section 5(a) of the act who are ineligible for benefits under section 4 due to the exclusions set forth in subsection (d) of section 101 of the act of December 2, 1942.

Persons hired locally, regardless of nationality status, were paid on a lower wage scale than those employees who were sent out from the mainland. The Guamanians, of course, prior to 1950, were not citizens of the United States. A substantial number of American citizens in the Philippines as well as Philippine-American nationals there were similarly employed in the Philippines. Because of the same restrictions in the act of December 2, 1942, they too may have been barred from the benefits provided for in section 4.

Backpay benefits to employees of contractors under section 4 of the act were restricted to persons specified in section 101(a) of the Act of December 2, 1942. That act, in turn, contained the following exclusion in subsection (d) of section 101, which is referred to in the subject bill, and reads as follows:

"(d) The provisions of this section shall not apply in the case of any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who is not living there solely by virtue of the exigencies of his employment, unless his injury or death resulting from injury occurs or his detention begins while in the course of his employment."

The Commission is not sufficiently well informed to provide an estimate of the cost of administering H.R. 4754, if enacted. The attention of the committee is invited to the testimony of Hon. A. B. Won Pat, speaker, Fifth Guam Legislature, in this respect set forth in the hearings before the subcommittee on Commerce and Finance, Interstate and Foreign Commerce Committee, 86th Congress, on bills to amend the War Claims Act and the Trading With the Enemy Act. The testimony to which reference is made may be found at pages 90 et seq. of the published hearings.

In view of the fact that the Bureau of Employees' Compensation in the Department of Labor was authorized to receive and settle all claims filed pursuant to section 4 of the War Claims Act, the committee will undoubtedly wish to consult that agency in the matter of the subject bill.

This Commission believes the exclusions found in section 101(d), quoted above, were, and are well founded and should not be relaxed. There was a strong moral obligation existing on the part of our Government to take care of those individuals who left their homes in continental United States, at the Government's behest, to assume the risks of employment on defense projects in known belligerent areas. The same is not true of civilian Americans normally residing in these areas who received substantial detention benefits, if captured and interned, or if in hiding to avoid capture. In effect, these benefits compensated them as if they had been continuously employed.

The bill, H.R. 4754, if enacted into law, would not require administrative action on the part of the Foreign Claims Settlement Commission. Nevertheless, in light of the foregoing the Commission cannot recommend its enactment.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

DEPARTMENT OF STATE,
Washington, August 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: I refer again to your letter of March 16, 1961, requesting a report on H.R. 4754, a bill to amend section 4 of the War Claims Act of 1948 to provide benefits to certain contractors' employees.

The purpose of the proposed legislation is to amend subsection (a) of section 4 of the War Claims Act of 1948, as amended, by extending the benefits provided therein to any Guamanian employed by a contractor with the United States or to any civilian American citizen, as defined in section 5 of that act, who was excluded from such benefits by certain residence requirements.

Subsection (a) of section 4 of the War Claims Act of 1948, as amended, authorized the Bureau of Employees' Compensation in the Department of Labor to provide for the payment of claims of employees of contractors of the United States during World War II for backpay, subject to deductions for amounts credited to their account or previously paid to them. Such benefits were restricted to persons specified in section 101(a) of the act of December 2, 1942.

Subsection (d) of section 101 of the act of December 2, 1942, however, to which reference is made in the proposed bill, excluded any person whose residence was at or in the vicinity of the place of his employment, and who was not living there solely by virtue of the exigencies of his employment. It is understood that because of such restrictions, the claimants covered by the proposed legislation were not eligible to receive benefits provided by section 4 of the War Claims Act.

Since the subject of the proposed legislation relates to matters primarily within the jurisdiction of the Bureau of Employees' Compensation, and since the Department does not have sufficient information concerning claims of employees of contractors with the United States received and settled by that agency, the Department is not in a position to comment on the merits of H.R. 4754.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will reply to your letter of March 16, 1961, requesting the comments of this office with respect to H.R. 5028, a bill to amend the Trading With the Enemy Act, as amended, so as to provide for certain payments for the relief and rehabilitation of needy victims of Nazi persecution, and for other purposes.

The State and Justice Departments are submitting reports to your committee in which they offer no objection to enactment of this bill. For the reasons set out in those reports, the Bureau of the Budget also offers no objection to the enactment of H.R. 5028.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF STATE,
Washington, D.C., July 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your letter dated March 16, 1961 requesting a report by the Department of State on H.R. 5028, to amend the Trading With the Enemy Act, as amended, so as to provide for certain payments for the relief and rehabilitation of needy victims of Nazi persecution, and for other purposes.

The Department notes that H.R. 5029 is identical to a bill, H.R. 6462, introduced in the 86th Congress, 1st session on which the Department submitted a report dated May 14, 1959, a copy of which is enclosed. The Department continues to believe, as stated in the enclosed report, that a lump sum settlement in respect of heirless property returnable pursuant to section 32(h) of the Trading With the Enemy Act, as amended, might be desirable as a means of expediting the availability of the heirless property funds for the relief of the victims of Nazi persecution. Therefore, the Department would have no objection to the enactment of legislation along the lines of H.R. 5028.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 5028) to amend the Trading With the Enemy Act, as amended, so as to provide for certain payments for the relief and rehabilitation of needy victims of Nazi persecution, and for other purposes.

Subsection (h) of section 32 of the Trading With the Enemy Act, as amended (50 U.S.C. App. 32) provides that the President may designate one or more organizations as successors in interest to deceased heirless persons who, if living, would be eligible to receive returns under the provisions of subdivisions (c) and (d) of the act relating to persons discriminated against by enemy nations on a political, racial, or religious basis. Subsection (h) limits returns to a total amount not to exceed $3 million and requires the organizations to devote the property returned to them to be used on a basis of need in the rehabilitation and settlement of persons in the United States discriminated against by enemy nations on a political, racial or religious basis; i.e., persons within the meaning of subdivisions (c) and (d) of the Trading With the Enemy Act, as amended.

The Jewish Restitution Successor Organization (JRSO) is the only organization which has been designated under the provisions of section 32(h). Of the claims filed by that organization there are not more than 500 in which there is any possibility of a return being made and such claims involve approximately $500,000.

The bill would amend subsection (h) of section 32 of the Trading With the Enemy Act, as amended, to foreclose the designation of any additional organizations unless application for such designation is made within 3 months after enactment of the bill. It would eliminate existing requirements with respect to procedures to be followed in making returns and in lieu thereof would provide a $500,000 lump sum settlement of all claims of successor organizations for the return of heirless property. Acceptance of payment by any such organization pursuant to the provisions of the bill would constitute a full and complete discharge of all claims filed by such organization pursuant to section 32(h) as it existed before its amendment by the bill. The bill also would provide that "immediately upon the enactment of this sentence, the Attorney General shall cover into the Treasury of the United States, for deposit into the war claims fund, from property vested in or transferred to him under this act, the sum of $500,000 to make payments authorized under section 32(h) of this act."

The Department of Justice has no objection to the enactment of this legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

FOREIGN CLAIMS SETTLEMENT COMMISSION,
OF THE UNITED STATES,
Washington, D.C., July 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request of March 16, 1961, requesting a report by the Foreign Claims Settlement Commission on H.R. 5028, 87th Congress, a bill to amend the Trading With the Enemy Act, as amended, so as to provide for certain payments for the relief and rehabilitation of needy victims of Nazi persecution, and for other purposes.

The purpose of H.R. 5028 is clearly stated in the title of the bill. It is identical to H.R. 6462, which was favorably considered by your committee in the 86th Congress.

The bill would provide for a lump-sum payment of $500,000 to any organization designated by the President to be distributed in the United States to needy victims of Nazi persecution. The Attorney General would be directed to transfer this sum into the Treasury of the United States into the war claims fund out of balances on hand derived from the liquidation of enemy vested assets.

The Commission's only concern with legislation amending the Trading With the Enemy Act, as amended, is the impact of such measures on the war claims fund and particularly the extent to which their enactment would divert the proceeds of liquidated enemy assets from payment of present or future valid American war claims to the financing of distress relief programs, educational benefits, or other related programs more closely associated with the general purposes of Government.

As to the basic merits of the subject bill, or the precise problem it is designed to meet, the Commission is not in a position to comment further.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 26, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of June 9, 1961, requesting the comments of this Office with respect to H.R. 7283, a bill to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

This bill would authorize payment of certain property damage claims of Americans growing out of World War II. A bill having a similar purpose was submitted to the Congress, on behalf of the administration, by the Foreign Claims Settlement Commission and has been introduced as H.R. 7479. It is recommended that, in lieu of the present measure, the committee give favorable consideration to H.R. 7479, the enactment of which would be consistent with the administration's objectives.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., June 23, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This is in further reference to your request of June 9, 1961, for the views of the Foreign Claims Settlement Commission on the bill, H.R. 7283, entitled "A bill to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses."

On May 23, 1961, I transmitted to the Speaker of the House of Representatives the administration's proposal with respect to the disposition of the World War II war claims problem. This proposal was introduced by you, by request, and has been designated H.R. 7479.

The administration bill differs from H.R. 7283 only in the following respects:

1. It eliminates provision for Philippine War Damage Commission awardees who did not reinvest.
2. It reincorporates reparations removal claims.
3. It corrects the statement on "nationality of claimants."
4. It eliminates tax credit deduction on corporate awards in excess of $10,000.
5. It raises program time from 4 to 5 years.
6. It omits provisions for bipartisan commission and terms of office for commissioners.

It is suggested that section 204 (item 3 above) was derived from H.R. 2485, 86th Congress, as transmitted by the executive branch. It erroneously states the international law principle in that it requires continuous U.S. nationality of claimants rather than claims. This should be corrected to show the intent of the Congress.

On the substance of both proposals in all other respects, it is requested that my letter of transmittal, dated May 23, 1961, addressed to the Speaker of the House of Representatives, be considered as an expression of the views of the Commission and the executive branch.

In conclusion, the Commission strongly urges the early resolution of this long-delayed war claims problem in the best interests of all concerned by enactment of H.R. 7479.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

DEPARTMENT OF STATE,
Washington, July 28, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Further reference is made to your letter of June 9, 1961, requesting a report on H.R. 7283, to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

On May 24, 1961, the Foreign Claims Settlement Commission transmitted to the Congress on behalf of the administration a bill, since introduced in the House of Representatives as H.R. 7479, which would provide for the payment of certain World War II claims. Under this bill the war damage claims of U.S. nationals against Germany arising in the European theater and certain claims against Japan arising in the Pacific theater would be paid from the proceeds of vested assets deposited in the war claims fund established pursuant to subsection (a) of section 13 of the War Claims Act of 1948, as amended.

The Department supports the enactment of H.R. 7479 which differs in several important respects from H.R. 7283. Accordingly, the Department is unable to recommend the enactment of H.R. 7283.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS,
Assistant Secretary
(For the Secretary of State).

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 21, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 7283, a bill to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The War Claims Act of 1948 as amended (62 Stat. 1240 et seq.) authorized the Foreign Claims Settlement Commission to satisfy from the proceeds of vested assets certain categories of war damage claims to U.S. nationals arising out of World War II actions.

The bill would enlarge the categories for which war damage claims could be filed and is similar to a proposal submitted by the Foreign Claims Settlement Commission on behalf of the administration which has been introduced as H.R. 7479.

However, it is the view of the Department that the provisions of the administration bill H.R. 7479 are preferable and the Department therefore is unable to recommend the enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, July 31, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representative, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 7283 to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The bill would provide for the determination by the Foreign Claims Settlement Commission for claims of American nationals for certain World War II losses and for the payment of such claims by the Treasury out of the war claims fund which consists of the proceeds of vested assets. These losses include (1) property losses in war areas, (2) shipping losses resulting from military action, (3) net losses of insurers of war shipping risks, and (4) death, injury, and property losses of certain civilian ship passengers.

This bill is identical with H.R. 2485 as it was passed by the House of Representatives, 86th Congress, 2d session. The administration has carefully reviewed the language contained in these bills and has adopted that language, with minor modifications, as its proposal to Congress on this subject. This proposal is now before your committee as H.R. 7479.

This Department urges the enactment of H.R. 7479 in lieu of any other proposed legislation for the settlement of war claims or for the disposition of vested assets.

A memorandum setting forth the differences between H.R. 7283 and H.R. 7479 and the Treasury Department's comments thereon is attached.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, *General Counsel.*

TREASURY DEPARTMENT MEMORANDUM ON DIFFERENCES BETWEEN H.R. 7283 AND H.R. 7479

H.R. 7283 contains three provisions not contained in the administration proposal, H.R. 7479:

(1) Certain claimants who would have been compensable under the Philippine Rehabilitation Act of 1946 had they been willing to reinvest in the Philippine Islands would be compensable without reinvestment.

Comment: It is unfair to persons who accept the reinvestment requirement of the Philippine Rehabilitation Act to dispense with this requirement at this time.

(2) Corporate claims in excess of $10,000 would be reduced by the amount of certain related tax benefits and claims so reduced would be exempt from Federal income taxes.

Comment: The tax adjustment provision is at best a rule of thumb. It would not apply to taxpayers who had elected to take a foreign tax credit rather than a war loss deduction. Its administration would require the services of a now limited number of Government employees who are familiar with this phase of tax law. The national interest would be better served if these experienced men were used on matters which would bring in tax revenue. Finally the tax exemption proposal would augment the fund available to claimants at the expense of taxpayers generally.

(3) Changes would be made in the organization of the Foreign Claims Settlement Commission.

Comment: The Treasury has no comment to make on this proposal.

H.R. 7479 contains one provision not contained in H.R. 7283:

(1) Claimants would be compensated for losses arising from reparation removals in Germany.

Comment: Losses arising when property is removed as reparation for the war losses of others would appear to be properly compensable in legislation of this nature.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 26, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of June 12, 1961, requesting the comments of this office on H.R. 7479, a bill to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

As you know, this bill is the introduced version of a proposal submitted to the Congress on behalf of the administration by the Foreign Claims Settlement Commission. For the reasons set out in the explanatory material accompanying the proposal, enactment of H.R. 7479 would be consistent with the administration's objectives.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 1, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on a bill, H.R. 7479, to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The War Claims Act of 1948, as amended (62 Stat. 1240 et seq.) authorized the Foreign Claims Settlement Commission to satisfy claims of U.S. nationals arising out of certain categories of war damages resulting from World War II actions. These claims were paid from the proceeds of vested assets.

This bill, which embodies the proposal submitted on May 23, 1961, to the Congress by the Foreign Claims Settlement Commission on behalf of the administration, would enlarge the categories of losses or damages for which claims could be filed and provides for the transfer by the Attorney General of proceeds of vested assets to be used for the payment of these claims.

The Department of Justice favors the enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General.*

DEPARTMENT OF STATE,
Washington, July 25, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Further reference is made to your letter of June 12, 1961, requesting a report on H.R. 7479, to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

H.R. 7479 is the legislative proposal for the payment of war damage claims submitted to the 87th Congress by the Foreign Claims Settlement Commission on behalf of the executive branch. The bill provides for the payment from the proceeds of assets vested under the Trading With the Enemy Act of certain World War II claims of U.S. nationals arising in the European and Pacific theaters.

The Department believes that the enactment of such claims legislation should not be further delayed. H.R. 7479 would provide equitable relief to the many

Americans with claims against Germany who have been waiting since 1945 while comparable claims in most other areas have been settled. It would also compensate American nationals with claims arising in the Pacific theater not covered by the treaty of peace with Japan or by existing U.S. war claims legislation.

The Department urges that prompt and favorable consideration be given to H.R. 7479.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS,
Assistant Secretary
(For the Secretary of State).

THE GENERAL COUNSEL OF THE TREASURY,
Washington, July 31, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 7479 to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The bill would provide for the determination by the Foreign Claims Settlement Commission of claims of American nationals for certain World War II losses and for the payment of such claims by the Treasury out of the war claims fund which consists of the proceeds of vested assets. These losses include (1) property losses in war areas, (2) shipping losses resulting from military action, (3) net losses of insurers of war shipping risks, and (4) death, injury, and property losses of certain civilian ship passengers.

The bill is substantially in accord with H.R. 2485 as it was passed by the House of Representatives of the 86th Congress, 2d session, and embodies the program of the administration with reference to the disposition of vested assets and the payment of war claims. This Department urges the enactment of H.R. 7479.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, *General Counsel.*

Mr. MACK. It is the intention of the Chair to first recognize Members of Congress who intend to testify or submit statements on this subject.

We have our colleague on this committee. For years he has taken a very active interest in war claims and made a substantial contribution to the hearings 2 years ago when he testified on the subject.

We are pleased to have our colleague, a member of this subcommittee, Arthur Younger, of California.

STATEMENT OF HON. J. ARTHUR YOUNGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. YOUNGER. Thank you, Mr. Chairman. I want to congratulate the committee, first, for taking the leadership which it has in the past Congresses to report a bill.

I only regret that the other body has not seen fit to do likewise.

I introduced a bill, 1117, which is a bill similar to what I have had in each session of Congress for a number of years, and I appear on behalf of that bill.

But, over and above that, I would like very much to have the committee this year broaden its consideration and consider those citizens

who lost their property, not exactly during the period of war, but as a result of war action by the Germans or the Japanese in territories which they invaded, but which countries were not enemy aliens during the time that we were in war, such as Czechoslovakia, Poland, China, and countries of that kind.

I think we ought to broaden our legislation to include our own citizens who lost their properties, their businesses, as a result of German or Japanese action in those countries. I do so from this standpoint:

We have been making pleas to our people to make investments in foreign countries, corporations to invest in foreign countries, but unless we show some consideration for these individuals or corporations when their properties are taken away from them, then we do not furnish very much encouragement for the investments which we want them to make in these foreign countries.

So the one thing that I would like to leave with the committee is the thought that you endeavor to broaden the coverage of the legislation which you recommended the last session, and include our citizens who lost property even before we got in the war, but as a result of German or Japanese action.

That is the one thought that I would like to leave with the committee and I hope that you will consider those citizens when you consider the legislation this time.

Mr. MACK. Thank you very much.

Are there any questions?

Thank you, Mr. Younger.

Our next witness this morning is our colleague, Mr. Machrowicz.

You may proceed.

STATEMENT OF HON. THADDEUS M. MACHROWICZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. MACHROWICZ. Mr. Chairman, members of the committee, I appreciate the opportunity accorded to me by this subcommittee to appear and testify on behalf of my bill, H.R. 1190, introduced by me on January 3, 1961.

This bill is identical with bills H.R. 3178, H.R. 4411, H.R. 5395, H.R. 5412, H.R. 5545, and S. 1796.

The purpose of these bills is to provide the same benefits for certain American citizens and permanent residents who were members of the armed forces of any government allied or associated with the United States during World War II, and held as prisoners of war, who were inmates of the German concentration camps, forced labor camps, and internees, as were provided by the War Claims Act of 1948, as amended, for those American citizens who were enrolled or enlisted in the Armed Forces of the United States and held as prisoners of war or interned by the Japanese, or for those American citizens who were members of the armed forces of any government allied or associated with the United States.

These bills, in fact, will remove the existing limitation, placed by the original War Claims Act, which excludes many American born and naturalized citizens, as well as permanent residents of this country.

The benefits will be paid out from funds obtained from the sale of vested assets, seized as the enemy property and now under the administration of the Government of the United States.

Following World War II, we have welcomed to our shores thousands of uprooted people who lived through the war in the enemy occupied territories, and bore the burden of it in heavier measure than ourselves. By this time many of them became American citizens and permanent residents of this country.

Large numbers of them suffered unbearable privations during the war. Enslaved, exploited, evicted from their homes and properties; terrorized, tortured, and exposed to most vicious forms of persecution of themselves and their families, they are, no doubt, most tragic victims of the total war.

Were it not for their courage, determination, perseverance, and sacrifices which they have shown, contributing in various forms to the common allied war effort, our losses in material expenditure and lives of our soldiers would have been incalculably greater.

In my opinion, therefore, they eminently deserve to have the eligibility for compensation benefits, provided by the War Claims Act of 1948, as amended, extended to include them.

It is a fact that the responsibility for all the ignominies, suffering, and damage inflicted on these people is directly attributed to the enemy nations of World War II.

The Nuremberg trial has proven beyond all doubt the flagrant violations not only of international agreements, such as of the Geneva Convention of 1929, but also of most basic human rights.

In view of this the use of funds proceeding from the former enemies and now being in our Government's administration for compensation benefits, is completely justified.

The difficulties confronting the subcommittee in dealing with the issue and various aspects of war claims legislation are undeniable.

There can be no doubt that the enactment of German war claims legislation is rather long overdue, as the chairman has stated, and should be urged upon this session of Congress. There can be also no doubt that the existing legal restrictions call for a liberalization of eligibility, and that the objection of alleged inadequacy of funds is not well taken, as I will explain later.

It has long been felt that the limitation of compensation to only those claimants who were U.S. citizens at the time of loss is unjust.

The long cherished principle of the "continuity of nationality" making the eligibility of the claimant dependent upon uninterrupted citizenship from the date of loss through the date of the claims settlement is outdated.

The United States quite rightly departed from this principle in several instances, as, for example, in the Defense Base Act, the War Hazards Act, the Guam Relief Act, and the 1948 Lombardo agreement with Italy.

Also, other countries, such as Australia, Austria, Denmark, Italy, Malaya, Malta, and the United Kingdom makes the nationality of the claimant immaterial in determining eligibility in their war damage compensation laws.

The most unusual legal situation created by the fact that a great number of claimants are political refugees, deprived of the legal

protection of the governments of their countries of origin, made the departure from this principle not only advisable, but imperative, if a great injustice was to be avoided. This position has been also recognized by the War Claims Commission. I quote:

> The Commission finds that the principle that a claim must be national in origin and national at the time of its presentation has no necessary application in the field of domestic war-damage legislation. In this field the Congress has absolute discretion in laying down rules governing the eligibility of claimants—83d Congress, 1st session, House Document 67, page 120.

In view of this, even the most obstinate advocates of a distinction between citizen by birth and by naturalization in the field of international law governing international claims, should admit that such distinction for the purpose of domestic legislation, covering such claims to compensation benefits, is both indefensible and discriminatory.

It is therefore a matter entirely of a legislative policy and of elementary justice, indeed, that these people who share now with us our national heritage; who are integrated in our national life; who work, produce, and pay taxes, together with all Americans; who strove and struggled for freedom and justice during the war together with us against the same enemy with all they had to offer and sacrifice—that they be treated under this program on an equal basis with the American citizens at the time of loss.

Only in that way can an intolerable vacuum in human rights be filled in, and an important omission removed from the War Claims Act whose generally beneficial purpose is wholly recognized.

Compensation being a matter of grace, this grace should not be withheld from any selected group of Americans.

As I stated at the beginning of my testimony, the bill provides for the payment of awards from the war claims fund. In connection with this a brief analysis is in order of an objection, sometimes advanced, of inadequacy of funds from this source:

It is a fact that the war claims fund has at the present time a balance of approximately $108 million of "free assets." There is a good possibility, however, that some $120 million presently under litigation, or a part thereof, would be added to the balance of the existing "free assets," increasing the total fund up to about $228 million.

I understand that there are around 28,000 claims to be satisfied, as proposed by the administration bill for damages in the total amount estimated at $215 million.

The history of adjudication of this type of claim shows, however, I am informed, that upon the examination of claims the amount actually awarded usually does not exceed 30 percent of the amount claimed, in this instance, $65 million, approximately.

Although it is not possible to provide this subcommittee with the ultimately accurate figures, I would estimate, however, that the maximum number of potential claimants eligible for benefits under my bill amount to around 50,000. This figure is based on statistical data secured by various organizations of former prisoners of war and associations of former political persecutees.

The amount of each individual claim will differ, of course, depending upon the time spent in POW, concentration, forced labor, or internee camp, as the case may be.

With awards based on the rates as set by the War Claims Act, the total benefits payable under my bill will constitute only a fraction

of expense claimed by war damage compensations. I strongly believe, therefore, that there are or will be sufficient assets in the fund for all claimants to satisfy their claims in full within the rates as provided by the War Claims Act.

I believe that this bill is a good one, and that it carries out its purpose fairly, equitably, and justly. This bill will eventually take care of the people who have come to this country as most unfortunate victime of World War II.

May I also bring to your attention the fact that these people cannot benefit under the compensation laws enacted by the German Federal Republic. This is because the discriminatory practice of the German courts and tribunals excluded practically all non-German claimants.

The definition of "persecutees for national reasons," created quite artificially to serve as a convenient loophole, barred nearly all of them, as foreign nationals, from compensation payments, which became reserved for the German political persecutees only.

Few exemptions made by the courts in some extraordinary cases of exceptional hardships are no excuse for this most depressing treatment of the former victims of the Hitler regime in Germany.

There is little hope in the promised liberalization of the existing German Federal compensation laws, as also in payments from a special fund put at the disposal of the United Nations High Commissioner for Refugees by the German Federal Government.

There is grave doubt that they will bring an effective and speedy realization of claims, if any at all.

The very provisions that the payments will be made on a priority basis, taking into consideration in the first place the financial situation of the claimants now residing in various countries all over the world, surely does not give a bright prospect for the fast, efficient processing of claims.

Moreover, one can hardly expect the citizens of the United States, with highest earnings and highest standard of living, to be placed on top of such a priority list, with hundreds of thousands of claimants to participate in distribution of a relatively small amount of $10 million marked off for this vast program.

Even, so, my bill has taken such a possibility, no matter how remote, into account, and provisions of the section 18d of my bill are a clear safeguard against any dual indemnity that may arise.

No one can expect or even suggest that the American citizens, because of their former nationality, are going to be compensated for their losses by countries of their origin which have fallen under Communist control.

Taking into consideration all the above-mentioned possibilities of obtaining compensation from sources other than proposed by this bill, it seems clear to me that unless the United States make provisions in this respect for these new American nationals, there would be practically no chance for them to satisfy their claims.

I recommend this bill to you. I believe that it fills one of the neglected and forgotten problems of justice which is long overdue in settling.

It is therefore in my opinion necessary, and is in the best tradition of our moral and legal heritage.

I believe that there will be sufficient funds to satisfy all the eligible claimants under my bill. However, should any doubt arise as to the adequacy of these funds, I would have no objection to the claims being handled on a priority basis.

Mr. Chairman, in that connection, I might say this: Though I express my complete confidence that there are adequate funds available to take care of not only the presently eligible claimants, but also those covered by my bill, if the committee has any doubts as to that, I have no objection to any amendment which may be offered which would establish a priority guaranteeing that the presently eligible claimants be paid in full before any of these claims are considered.

I know that there is another provision suggested by other groups, a system of priority.

On behalf of myself and those for whom I speak, may I say, Mr. Chairman, that any provisions as to priorities that the committee may deem necessary to guarantee payment to those presently eligible under the War Claims Act are satisfactory to us.

The main thing, I think is that we do establish the fact that these people will be given consideration, these people who in my opinion suffered more than anyone else, and that under whatever system of priority the committee may adopt, their claims may be allowed.

Mr. Chairman, after consultation with many of those who would become eligible under the bill, I can also state for them they felt that in order to establish the principle involved in this bill, they would be willing further to have the bill amended so that the provision, beginning with line 10 on page 1, and ending with line 4, page 2, which would include in the category provided for in the bill those who are not now American citizens, but are lawfully admitted to the United States, be removed so that it be applicable only to those who are presently American citizens.

I might state further, Mr. Chairman and members of the committee, that because we feel the establishment of this principle is so important and that some provision be made in this bill to take care of these people, I am further willing to remove from the bill, if the committee sees fit to do so, section 19a beginning with page 3, line 17, and ending with line 10 on page 5, which includes the internees, deportees, and forced labor claims, which would remove a great number of those in this category and would leave then, only the prisoners of war which are the primary interests, I believe, of the members of this committee and should be of every American citizen.

So, Mr. Chairman, with those proposed amendments and with those concessions I sincerely hope that in the interest of fairness and justice and in order to show the rest of the world that we are not forgetting those people who suffered most because of the Nazi cruelties during World War II the committee will favorably consider this bill.

Mr. MACK. I want to thank our colleague for a very fine statement this morning. I assure him on behalf of the committee that we will give very careful consideration to this problem.

Mr. MACHROWICZ. I might say further, Mr. Chairman, that Judge Adesko of Chicago, Ill., who is chairman of the committee of the Polish-American Congress, handling this type of claims, is available to the committee for any questions submitted to him. He made a

statement at the last session. He has nothing to add except he wishes me to say that he confirms my statement and is willing to accept the amendments that have been suggested by me.

Mr. MACK. It is my understanding that Judge Adesko is here today, but he does not desire to testify. Is that correct?

Mr. MACHROWICZ. He is willing to answer any questions that may be submitted by the committee. He does not particularly desire to testify except he wishes to state that he confirms the statements made by me here.

Mr. MACK. The judge is one of our most distinguished citizens in Illinois as a Cook County judge. We are very happy to have him with us today.

Of course, we do have the statement which he made last year, which is part of our present record.

Thank you very much.

Are there any questions?

Mr. DINGELL. I want to pay tribute to the witness, a very dear friend and colleague. As he well recalls, last year I was strongly in favor of this legislation. I will assure him that I will do whatever is possible to secure enactment of the bill on which he testifies, which has great merit. It meets a great need of a large number of our people who are otherwise slighted.

Mr. MACK. Thank you for your statement.

Mr. MACHROWICZ. Thank you, Mr. Chairman, and members of the committee.

Mr. MACK. Our next witness is our distinguished colleague, the Honorable Joel Broyhill, of Virginia.

STATEMENT OF HON. JOEL T. BROYHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. BROYHILL. Thank you, Mr. Chairman.

I have no prepared statement and I will keep my comments very brief.

I want to testify specifically on that part of H.R. 1190 which is section 18, down through line 16 on page 3.

I do not want to repeat anything that was said by the previous witness except to say that I support and endorse everything that he has said and should like to associate myself with his remarks.

I would like, however, to point out an additional reason why I think that the committee and the Congress should strongly consider, favorably consider, that provision in H.R. 1190.

That is the additional service and help that was rendered to American servicemen by these people while they were prisoners of war.

I make particular reference to the Serbians. I was a prisoner of war with the Serbians in Hamelberg, Germany, during the latter part of World War II. I, along with several thousand other American servicemen, was captured in the Battle of the Bulge. Along about the middle of January in 1945 we were moved into Hamelberg, Germany. Hamelberg, Germany, was occupied by around 5,600 Serbian officers and some troops had been prisoners of war for more than 4 years, captured back in 1941.

Certainly they did not have proper and sufficient food, clothing, and shelter.

When we moved into Hamelberg it was a cold day, there was snow on the ground, we had not had any food to eat for several days. We were practically starving to death.

When we moved into Hamelberg those Serbian officers shared what meager rations they had with us.

During the period we were at Hamelberg, it was a constant process of starving to death. We were without adequate clothing, proper food, adequate shelter, adequate clothing, proper sanitation facilities.

But in spite of the fact that the Serbians were no better off than we were, they had become adjusted to this way of life for over 4 years and shared what they had with us because they knew that we were not adjusted to it and we were not hardened as they were.

There is no question in my mind that if these Serbian officers had not shared their rations and their other equipment that they had with us, many American officers and servicemen would not have survived.

The fact of the matter is that many did die during that period because of lack of proper food and sanitation facilities.

I feel that we Americans owe those people a debt of gratitude that we can never repay.

I am not familiar with all the problems that the committee will have to deal with in distributing these remaining funds, but whether there are ample funds or not, our people here in America owe those people this debt of gratitude.

I cannot believe that any mother, father, wife, brother, or relative of any of our servicemen who received this help from their comrades in arms during this grave period can object to our Government acknowledging that debt of gratitude and paying some meager recognition of that great service to our people.

I know from my own personal experience the debt of gratitude that I can never repay. I have tried in some small way to show my appreciation. I have helped to get some of these people over with affidavits of support and actually providing employment for them.

But I think there is a great deal more that we can do, and should do, because they did not have to provide this help. It was just through brotherly love and affection that they did this.

They are entitled to our recognition and our sympathy for that deed alone, not to mention, all these other things that were pointed out by Congressman Machrowicz.

It is a justifiable claim and I hope that our Congress will recognize that debt that we owe these people.

Whether we can do it from these war claims or whether we do it from the funds of the Treasury, we should do something to recognize that extra service that these friends of ours rendered to our troops while they were prisoners of war.

Now, that is the substance of my statement, Mr. Chairman. There are other witnesses, I know, who will emphasize the other reasons to justify these claims being paid in section 18, of H.R. 1190.

I do hope that the committee will consider some action which will in part recognize this debt of gratitude we owe these Serbian officers.

Mr. MACK. Thank you.

Are there any questions?

In behalf of the committee, I would like to thank you for a very fine statement.

We also have our colleague, the Honorable Walter S. Baring, of Nevada.

Mr. Baring, we are glad to have you with us.

STATEMENT OF HON. WALTER S. BARING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. BARING. I am very happy to be here, Mr. Chairman, and gentlemen.

I am appearing here today in support of H.R. 3866, a bill which would permit the return of vested U.S. property to U.S. citizens.

That is the only aspect of this matter to which I wish to address myself, although I am certainly aware of the vast scope of the problem which confronts the committee.

In dealing with this problem within a problem, I will ask the subcommittee bear with me on the proposition that this aspect of the matter is one which should be carved away from the whole program and handled as expeditiously as possible.

I do not believe, Mr. Chairman, that the resolution of all of the problem should delay legislation with respect to this one part of it.

You will perhaps recall, Mr. Chairman, and gentlemen, that I introduced identical legislation during the 86th Congress. I did so because it seems to me in simple honesty that we cannot, as a legislative body, maintain the proposition that property built up by the hard work and acumen and diligence of citizens of the United States should be taken from their sons, their daughters, and other heirs by a law never meant to accomplish such a thing.

The Trading With the Enemy Act has been described by the Supreme Court as "legislation of a makeshift patchwork," and while I do not for one moment doubt its necessity in time of war or national distress, let us not forget that it is makeshift legislation and was enacted in haste, and, like many other emergency measures, sometimes operates more severely and more harshly than its drafters intended that it should.

Let me give you an example which points up the matter very clearly, Mr. Chairman.

My own home State, the State of Nevada, is now the residence of Mrs. Friederike Strachwitz, the great-granddaughter of the former U.S. Senator Sharon, and granddaughter of former U.S. Senator Francis Newlands, both of whom represented my State of Nevada in the U.S. Senate for many, many years and with great distinction.

The mother of Mrs. Friederike Strachwitz, who was the daughter of Senator Newlands, married a German citizen and a few months after the birth of Friederike died an untimely death.

The father of this child Friederike married a German citizen. Although Friederike spent much of her childhood in the United States, as well as in England and France, she was, nevertheless, simply by virtue of her birth, a citizen of Germany.

Friederike Strachwitz inherited property from her American mother, which property had been accumulated by both her grandfather and great-grandfather and passed on by them to her mother.

This property has always been in the United States and since 1927 has been held in trust for the benefit of Friederike Strachwitz by the Union Trust Co. of the District of Columbia.

The property consists of tightly held family land holding corporations, one of which developed connections in the outlying environs of this district and others of the corporation had interests in the State of California and in my native State of Nevada.

In January 1943 this property was vested by the Alien Property Custodian acting under the Trading With the Enemy Act, since Mrs. Strachwitz was living in eastern Germany with her husband at that time.

Thus, for the past 13 years the Alien Property Custodian has received the income from this trust, but the corpus of the trust has never been reduced to the possession of the United States. Therefore, although revesting of the income in Friederike Strachwitz will cost the United States something, the revesting of the corpus of the trust would cost the United States nothing, for it has never had the corpus in its possession.

Shortly after the termination of World War II, in the course of which Mr. Strachwitz' property was confiscated by the Russians and is still in Communist Poland, Mr. and Mrs. Strachwitz and their two sons and four daughters made their way, with great hardship, to this country. They became naturalized citizens of the United States, each and every one of them, in Reno, Nev., where they now live.

I might say one boy is in Annapolis right now. The other one has served in the Army for 3 years, and one daughter working for the Atomic Energy Commission and two other girls are schoolteachers in our State.

Ironically enough, approximately one-fifth of the corpus of Mrs. Strachwitz' trust, which is still in the possession of the Union Trust Co., was in the form of U.S. Treasury bonds. Thus we are in the position of having the Government in an anomalous position of borrowing money from Mrs. Strachwitz and then confiscating or attempting to confiscate the obligation of the Government to repay her pursuant to the promise contained in the bonds.

The bill which I have introduced, Mr. Chairman, seeks to amend section 32 so that the administrative relief heretofore provided for citizens of other countries might be extended to citizens of the United States.

The bill changes the present law only in that one respect and simply provides that a citizen of this Nation may now file for return of his vested property if he or she is a citizen of the United States.

There is already appropriated for the purpose of return heretofore authorized under this particular section, as I know you are well aware, the sum of $9 million.

It seems to me, Mr. Chairman, that naturalized citizens of this Nation are as much entitled to their property as our native-born citizens. We do not have, and we have never had, second-class citizens of the United States, and it doesn't seem to me in this particular instance we should treat certain of our citizens in this second-class fashion.

I believe this is a case in equity. Who else has a U.S. citizen to turn to but his own Government?

I would like to ask at this time if I may insert in the record the remarks of my senior Senator, Senator Alan Bible.

Mr. MACK. Thank you very much.

Are you including the statement from the Senator from Nevada?

Mr. BARING. I so request, Mr. Chairman.

Mr. MACK. The Senator contacted me this morning and stated he would not be able to join you here to testify. He did make the request. It may be included without objection.

(The statement referred to follows:)

STATEMENT BY SENATOR ALAN BIBLE

I am pleased to submit this statement in connection with this committee's consideration of the inequities resulting from continued vesting of the estate and trust property of American citizens under the Trading With the Enemy Act.

My own attention has been drawn to a particularly unfair situation exemplifying in a poignant way the plight of certain American citizens whose rights continue to be vested.

In 1927, a granddaughter of the late U.S. Senator from Nevada, Hon. Francis G. Newlands, who is also a grandniece of another late U.S. Senator from Nevada, Hon. William Sharon, placed the property she inherited from her two senatorial ancestors in a trust in the District of Columbia, the income from which was made payable to her. Although a German citizen at that time, she resisted the threats of the Hitler government to bring her inheritance to Germany, and gave irrevocable orders to her American trustees not to yield to the deceits and pressure of Nazi agents who periodically tried to seize the trust property in the United States.

In 1943, the Office of Alien Property vested all her rights in this trust, and has collected the income from it ever since. In 1947, however, this descendant of two U.S. Senators came to America with her family, and in 1952 she, her husband and children became American citizens. One of her sons, in fact, graduated from the U.S. Naval Academy, and another is serving in the U.S. Army.

Had she remained a German, she would by now have been compensated by the German Government for the vesting of her trust in the United States. Under an agreement with the United States, Germany has paid its own citizens for property seized by the United States, but will not compensate former citizens who no longer are German nationals. As the law stands in this country, she cannot be compensated by the United States either. Yet the entire corpus of her trust consists of property, which was derived from two U.S. Senators, never left the United States, and never benefited the Nazi regime of Germany. Her relatives in the United States have had to support her family, while the Office of Alien Property has been receiving the income from this American trust.

After the many attempts made in previous Congresses to correct this and similar inequities suffered by other American citizens as a result of the continued vesting of their rights under trusts and estates, I have received an encouraging statement from the executive branch of our Government, which is charged with the administration of the Trading With the Enemy Act. In response to my letter, which I should like to introduce into the record at this point, the Department of State has informed me that it has no policy objection to administrative action terminating the vesting of the rights of American citizens under trusts in the United States. I should also like to insert at this point the communication from the Department.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
July 10, 1961.

Hon. DEAN RUSK,
The Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: My attention has been called to the report of the Department of State to the chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives, made on June 22 on H.R. 3866. There is pending in the Senate a companion bill, S. 495, of which I am the author. Both of these bills seek to amend the Trading With the Enemy Act.

I feel strongly regarding the inequity of the existing situation resulting from the continued vesting of personal property owned or payable to U.S. citizens. The apparent authority for continuing this practice is Public Law 91 of the 65th Congress, which was passed during the early years of World War I and designed

to deprive enemy aliens of property rights which might accrue within the United States.

I would like to know whether or not the Department of State would support administrative action designed to terminate any future distribution, by the Office of Alien Property, of a trust in the United States due or payable to beneficiaries who are citizens of the United States.

It is my belief that any future distribution by the Office of Alien Property of a trust due a citizen of the United States, under the authority of the Trading With the Enemy Act, is not in the interest of continued friendly relations with friendly governments, nor is it in the interest of citizens of the United States who might be affected.

I should welcome your comments on these views.

Please be assured of my continued high regard.

Cordially,

ALAN BIBLE.

DEPARTMENT OF STATE,
Washington, July 21, 1961.

Hon. ALAN BIBLE,
U.S. Senate.

DEAR SENATOR BIBLE: In your letter of July 18, 1961, you express your views regarding the inequity of the continued vesting by the Office of Alien Property of personal property which is owned or payable to U.S. citizens. In this connection you inquire whether the Department of State would have any objection to administrative action which would terminate further payments to the Office of Alien Property from trusts in the United States which would, if not vested under the Trading With the Enemy Act, be paid by the various trustees to beneficiaries who are citizens of the United States.

I am pleased to inform you that the Department would have no objection to administrative action for the purpose of terminating the payments to which you refer and which would permit the income from such trusts to be paid to beneficiaries who are U.S. citizens.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary.*

This administrative action can be expedited by the Congress passing an appropriate amendment to the Trading With the Enemy Act. Taking this action promptly is the least that the Congress can do to correct a very serious inequity. It would not involve any monetary outlay, for it would only prevent further receipt by the United States of funds due to American citizens and would not require the repayment of money already paid in to the Government.

The plight of new American citizens who cannot turn to their former government for relief because they have become Americans, and who are denied relief by the United States because they were once aliens, deserves immediate correction by the Congress.

Mr. MACK. Now, we also have our colleague from New York, Mr. John V. Lindsay.

STATEMENT OF HON. JOHN V. LINDSAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. LINDSAY. I appreciate this opportunity to discuss H.R. 7479, and 8283, and to indicate my support of this legislation in general.

However, I should like to suggest to the committee the importance of considering an amendment. Admittedly, there are thousands of Americans who sustained war damage losses and who have had no means of recouping these losses.

I submit, however, that if these bills are passed in their present form all American citizens with war losses will have received substantial compensation except those who suffered property losses in Hungary.

This inequity can hardly be classified as a result of any design. On the contrary, it represents the unfortunate consequence of good faith

efforts, but, nevertheless, uncoordinated efforts to compensate within a limited framework all Americans who have suffered losses.

The postwar compensation programs established by the governments of our wartime allies in Western Europe rendered payments varying from 35 percent to 100 percent of the total amount of the losses sustained. It concluded peace treaties. Italy, Bulgaria, Rumania, and Hungary were committed to pay American citizens for war damages suffered.

Only Italy met its obligation.

The satellite countries defaulted.

Now, under Public Law 84–285, the Attorney General was directed to vest the American assets located in the United States of the governments of the satellite countries as well as of the corporations of those countries domiciled here.

Those assets were used to pay American war damage claimants for losses sustained in those countries as well as losses sustained through postwar nationalization.

During consideration of this 1955 legislation, it was anticipated that the Hungarian claims fund would amount to $3.1 million, and war damage awards would be slightly under $12 million. The actual figures later developed showed vested assets at less than $2 million and war damage and nationalization awards in excess of $60 million. The anticipated payment ratio of 25 percent for Hungarian claimants amounted to a mere 1 percent and yet the payment ratios of Rumania were 36 percent and for Bulgaria it was 53 percent.

These figures substantiate the statement I made just a moment ago, that in the event this legislation were to be enacted into law, it would mean that substantially all war claimants would have been compensated to a reasonable proportion except the Hungarian claimants.

The purpose of these bills now under consideration is to provide some measure of relief to all American claimants for losses suffered. This is indeed commendable. However, I must point out that if this program is carried out in its present form, the disparity in satisfaction between the claimant who sustained war losses in other countries as opposed to losses in Hungary would be tantamount to discrimination.

I repeat this would be a consequence of the programs and by no means one of design. I am sure that the facts put forward present the issues squarely.

The rate of satisfaction of claims in all instances with the exception of those arising out of holdings in Hungary would range from 35 percent to 100 percent. Satisfaction of claims for losses in Hungary at a rate of 1 percent would not even approach a semblance of fairness.

I do not seek inclusion of American Hungarian losses resulting from postwar nationalization of American assets by the Communist regime in Hungary. These nationalization claims should be limited to compensation out of Hungarian funds.

However, it can be stated that World War II damages in Hungary were a direct result of Nazi hostilities and in the light of the resulting inequities and satisfaction, I submit that the German claims bill should be amended in such a manner as to provide for payments to Hungarian war damage award holders at a ratio equal to the ratio obtaining for other claims against Germany.

No new claims need to be adjudicated. A recertification of Hungarian war claims awards previously made is all that is necessary. The satisfaction received under the previous Hungarian program would be deducted from payment under the German claims program.

Exact language embodying such an amendment will be submitted to the subcommittee.

In conclusion, Mr. Chairman, I respectfully submit that in consideration of these bills the subcommittee give careful attention to the resulting inequities experienced by claimants for war damage losses in Hungary.

Many of these people are constituents of mine and I have studied this problem with care. I believe that our efforts thus far have been geared toward affording all American claimants some measure of relief for their huge losses.

We are not in a position to place any of these claimants in the same position they would have been had no war occurred. We are in a position, however, to equalize these claims and to place a greater element of fairness in the legislation.

I believe that the subcommittee can accomplish equity by inclusion of the Hungarian war damage claimants in this bill in recognition of the fact that a 1-percent satisfaction is tantamount to nothing.

The undue harshness of the current situation compels me to plead this position. I urge the subcommittee in its deliberations to amend the legislation along the lines that I have suggested.

I urge further that the legislation, as amended, be reported out and enacted into law.

Mr. Chairman, later this morning a constituent of mine, Mrs. Barbara Spencer, will testify as to the position of some of the Hungarian claimants about whom I have talked. Perhaps she will tell you something of her own problem involving a substantial Hungarian claim and the losses that she and her family have suffered.

I wish I could stay to listen to that testimony and the rest of the testimony, but my own committee is meeting on important matters this morning.

Thank you very much.

Mr. MACK. Do you have an amendment prepared that you desire to be made a part of the record?

Mr. LINDSAY. The language of such an amendment has been prepared by Mr. Allen Wurtzel, who will testify later on.

I fully support the amendatory language which has been prepared by him.

I think it is a sound amendment and that technically the language stands up.

Mr. MACK. Thank you very much.

Mr. Dingell?

Mr. DINGELL. Will the gentleman tell us whether or not the claims to which he alludes, these Hungarian claims, stem from action of the Hungarian Government?

Mr. LINDSAY. No.

Mr. DINGELL. Or from actions by the Nazis?

Mr. LINDSAY. By the Nazis, yes.

Mr. DINGELL. Actions which were committed by the Nazi German Government during the war?

Mr. LINDSAY. That is right.

Mr. DINGELL. They do not refer to postwar nationalization?

Mr. LINDSAY. They do not.

The amendment is limited only to war damages caused during the German occupation.

Mr. DINGELL. How about actions by the then Hungarian Government which according to my recollection collaborated with Germany.

Mr. LINDSAY. That would be part of the same, because it is directly traceable to the Nazis operating through a puppet government.

Mr. DINGELL. In other words, it includes actions by the then Hungarian Government and actions by the then German Government; is that correct?

Mr. LINDSAY. That is correct, insofar as the then government could be called Hungarian.

Mr. DINGELL. Now, these war claims which we had against the other governments which the gentleman mentioned, were those settlements which we made stemming from actions by the German Government?

Mr. LINDSAY. Yes, those are all on an equal footing with these. The difference is that in those cases, where we are talking about satellite countries, claims have been satisfied generally to the same extent that other claims have been satisfied.

In other words, as I mentioned in my direct testimony, Mr. Dingell, in the case of Rumania, for example, claims have been satisfied up to 35 percent.

Bulgaria, 53 percent.

What this legislation you have before you is designed to do is to take care of unsatisfied claims. Satisfied claims include all of these that were covered by special arrangements, treaty or otherwise. Included in those special arrangements were the Hungarian claims.

However, because of the fact that the funds in that one grouping were so limited compensation amounted to about 1 percent, whereas all the others were taken care of up to 53 or 55 percent.

What we ask in this amendment is that the Hungarian war damage claims be included in the German assets bill so that compensation for Hungarian claims with these other programs for the satellite and indeed, nonsatellite comuntries where American property was lost because of the German war occupation.

Mr. DINGELL. Thank you very much.

Mr. MACK. Are there any further questions?

Thank you, Mr. Lindsay.

Mr. LINDSAY. Thank you, sir.

Mr. MACK. The next witness is our colleague from New York, the Honorable Samuel S. Stratton. Mr. Stratton, we will be glad to hear you at this time.

STATEMENT OF HON. SAMUEL S. STRATTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. STRATTON. Mr. Chairman, I appreciate the opportunity to comment on H.R. 3178, the bill I introduced to amend the War Claims Act of 1948. It is similar to the bill introduced by the gentleman from Michigan, Mr. Machrowicz (H.R. 1190), and other distinguished Members. As you are aware, the purpose of my bill is to make possible certain benefits under the Act to certain citizens or permanent residents of the United States who during the period

of World War II were subject to mistreatment, imprisonment, and other misconduct on the part of our enemies, and who suffered these indignities while they were at that time nationals of other countries.

Already there are sections of our law which provide certain benefits both for civilians and for former members of the military forces who were prisoners of war but who were American citizens at the time these events occurred. My bill would simply extend those benefits to include other citizens who, though citizens of other countries at the time, were also brutally mistreated by Nazi Germany, and who by their firmness and courage also contributed in a very great way to the ultimate victory of our allied cause.

I think the most important consideration is that these people who would be entitled to benefit under my bill all contributed in one way or another very substantially to the allied cause, and not that these persons were or were not citizens of the United States. Most of them during the war were citizens of countries which now are under Communist control, and so they are effectively deprived of any compensation for the injustices they suffered at the hands of our common enemy.

I am particularly aware of the seriousness of the problem to which my bill is addressed because there are many Americans of Polish descent in my district who have been instrumental in bringing into Schenectady, Amsterdam, and other parts of my district other individuals who distinguished themselves in the Polish Government and in the Polish Army during World War II. These new persons have since become American citizens, and have assumed outstanding positions of leadership in their communities.

Funds that have been made available under the War Claims Act of 1948 are not American funds. They are funds that have been turned over to us from our common enemy. In carrying out the purposes of the War Claims Act we are acting in trust for all who joined us in that great undertaking. There is, therefore, every justification and legal right that those who suffered with us should be compensated from the assets of our common enemy. Our bill provides that any amount received from the fund shall be reduced by any amount that a person may receive by way of compensation from any other government by reason of having been imprisoned or forced to perform forced labor. So there is no danger that one person would receive dual benefits under the proposed arrangement.

It is my understanding that the war claims fund is more than adequate to cover the cost of providing the benefits for the 25,000 to 30,000 additional persons who would qualify under this amendment. Furthermore, it is generally agreed now that this so-called continuity of nationality of claimants rule is now out of date. The War Crimes Commission categorically stated in a report to Congress on January 16, 1953, that the rule that a claim had to be national in origin and national at the time of its presentation has no necessary application as far as domestic war-damage legislation is concerned.

Speaking, then, not only for my own constituents of New York State, but also for many other brave and loyal Americans who bore the brunt of enemy attack alongside of us in other lands and now live in parts of our own Nation, I urge favorable consideration of H.R. 3178 which I have had the honor to introduce, together with those bills which are similar to it.

Mr. MACK. Thank you very much for your appearance and testimony, Mr. Stratton.

Mr. STRATTON. Thank you, Mr. Chairman.

Mr. MACK. The next witness is our distinguished colleague on this subcommittee, the Honorable John D. Dingell. Mr. Dingell, we will be glad to have your testimony.

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Mr. Chairman, I appreciate the courtesy of the chairman and members of this subcommittee in permitting me to appear today to support bill H.R. 1190 sponsored by my friend and colleague the Honorable Thaddeus M. Machrowicz, and similar legislation.

I feel it is just and right to extend compensation under the War Claims Act of 1948 as amended to persons who are now citizens of the United States, and who during the World War II contributed to the victory over our common enemy, as regular enlisted soldiers of allied or associated countries and as members of the underground resistance forces. I feel compensation should be paid to these persons for violation of the provisions of the Geneva Convention of July 27, 1929, while they were held as prisoners of war in the enemy P.W. camps and as inmates of concentration camps for the inhuman treatment and sufferings inflicted on them.

The first group of those eligible for compensation under H.R. 1190 encompasses certain categories of former prisoners of war, namely American Reserve officers, excluded from the benefits of the War Claims Act of 1948 as amended, since they were not on active duty at the time of capture—members of the Philippine Army and Philippine Constabulary units not included in the U.S. Armed Forces Far East, and members of Philippine guerrilla units, retroactively recognized by the military services for certain pay benefits. It also includes other groups who have since achieved American citizenship such as prisoners of war from regular armed forces and from underground resistance forces of allied or associated countries held during the World War II in German P.W. camps. The most numerous group taken by the Germans to P.W. camps from the underground resistance forces was after the fall of the famous Warsaw uprising of 1944. It is a proven fact that the enemy governments violated the Geneva Convention of July 27, 1929. These violations are listed in detail in the War Claims Act of 1948, section 6.

The second group eligible for compensation under this bill are the inmates of the German concentration camps from allied or associated countries during World War II, at present citizens of the United States. This group consists of several categories of persons:

1. Former inmates of P.W. camps who contrary to the provisions of the Geneva Convention of July 27, 1929, were transferred from P.W. camps to concentration camps. There are numerous examples of such transfers, one of the outrageous ones was transfer of Colonel Morawski, senior officer of the Grossborn-Raederitz P.W. Camp in 1944 and of several other officers of higher rank to the Mouthausen Concentration Camp where they were subsequently executed.

2. Escaping prisoners of war who, contrary to the provisions of the Geneva Convention, not returned to the P.W. camps, but upon capture who were taken directly to concentration camps.

3. The captured members of the underground resistance forces in the enemy occupied territories, of whom only relatively few were sent to the P.W. camps. These groups were engaged, for instance, in direct military action behind the German lines, being organized in detachments under military command, in military intelligence, in sabotaging German transportation and establishments of military and strategic value, etc. The manner of warfare of the underground resistance forces could be compared to that of the famous British Commandos.

4. Persons, under a preventive action of the German Government were taken from homes and streets (the ill-famed German "round-ups") as suspected active or potential leaders and members of the underground resistance forces.

H.R. 1190 does not include the inmates of concentration camps who were imprisoned there as criminals. The criminal element in the German concentration camps consisted primarily of German nationals, who were used by the concentration camp administrations in positions of intermediate supervision and authority to help them discipline, terrorize, and exterminate the non-German political prisoners. Furthermore, the group of concentration camp inmates which H.R. 1190 would make eligible for compensation, was provided with special distinguishing labels, which they were ordered to wear at all times while in the camp, and they were registered in the German concentration camps' rolls under separate code. It must be remembered that all persons admitted for residence in the United States by the Displaced Persons Act of 1948 underwent a very detailed and scrupulous screening before being granted a visa. If the screening would have revealed any criminal record, such person would be denied entry to this country.

Among the concentration camp victims living now in our country, are native born or pre-World War II naturalized citizens of the United States.

The Nuremberg trials after 1945 proved beyond any doubt the Nazi war crimes perpetrated on these groups of Nazi victims. Many of the guilty were brought to justice and punished, but the victims of their crimes are still waiting for just compensation.

The people belonging to these groups seek no privilege, but only recognition of their sacrifice and suffering contributing to the common Allied victory. I believe that they justly deserve being included in the compensation program, the more so because, having chosen this country as their own, they have no other country to turn to.

For these reasons I support wholeheartedly the provisions of this bill.

Mr. MACK. Thank you very much for your testimony, Mr. Dingell.

Mr. DINGELL. Thank you for the privilege, Mr. Chairman.

Mr. MACK. The next witness is our colleague on the entire committee, the Honorable Dan Rostenkowski. Mr. Rostenkowski, we are happy to have you testify before the subcommittee.

STATEMENT OF HON. DAN ROSTENKOWSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. ROSTENKOWSKI. Mr. Chairman, thank you for this opportunity to appear before this subcommittee to testify in favor of my bill, H.R. 5412, to amend the War Claims Act of 1948 to provide for the payment of benefits under such act to certain citizens and permanent residents of the United States.

During the conflict of World War II, there were many people of allied nations who sacrificed a great deal to assist us in defeating our common enemies. Not only did they stand shoulder to shoulder with us on the fighting lines, but many worked behind enemy lines in destroying war material and equipment, and disrupted production, transportation, and supply lines, which kept a large number of enemy military forces occupied in trying to stem the underground resistance movements; military forces that could have been used in the front lines against our own forces. These actions were instrumental in saving many lives of American soldiers, for which we are grateful. And yet, many of these people lost everything in bringing about the victory we enjoyed.

Under the provisions of my bill we would provide compensation to those who sacrificed their lives and property for our cause. Compensation would be paid from enemy moneys under our Government's disposition, and would not be a burden to our taxpayers. These funds have been set aside by our own domestic legislation and by international agreements for the specific purpose of compensation payments for claims arising from World War II.

Since the end of World War II, many of these gallant people have immigrated into our country. Many have pledged allegiance to our flag and many others are waiting for the day when they, too, can claim citizenship here. Their losses and sufferings in World War II were no less, and in many instances far greater, than American citizens who suffered losses at the hands of the enemy. We have compensated our citizens and it is time that we compensate these nationals and alien residents. The funds are available so let us not hesitate any longer.

I urgently request this committee to favorably consider and support my bill, H.R. 5412.

Mr. MACK. Thank you for your appearance and testimony, Mr. Rostenkowski.

Mr. ROSTENKOWSKI. Thank you, Mr. Chairman.

Mr. MACK. The next witness is another of our colleagues on the entire committee, also from Illinois, the Honorable Harold R. Collier. Mr. Collier, we are happy to have your testimony at this time.

STATEMENT OF HON. HAROLD R. COLLIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. COLLIER. Gentlemen, I appreciate the opportunity of submitting this statement in support of my bill, H.R. 5395, to amend the War Claims Act of 1948 to provide for the payment of benefits thereunder to certain citizens and permanent residents of the United States.

It is my sincere belief that this legislation, and similar bills introduced by many of my colleagues, will provide just compensation under the War Claims Act of 1948 for the many victims of Nazi persecution and will correct an important omission in the act.

Although the Nazi war crimes were proved and the guilty brought to justice and punished in numerous war crime trials, their victims are still waiting, nearly 20 years later, for a fair disposition of their legitimate claims. Among the approximately 40,000 claimants are prisoners of war, inmates of concentration camps and prisons, in-

ternees, deportees, and forced laborers. While the war crimes were proved, German postwar legislation was so discriminatory against non-German claimants that these people were almost entirely excluded from the benefits of law and were granted no compensation at all.

Under the War Claims Act of 1948, compensation has been limited to only those claimants who were U.S. citizens at the time of loss. Not only is this unjust, but the principle of "continuity of nationality" is long outdated. The United States has quite rightly departed from this principle in several instances, that is, the Defense Base Act, the War Hazards Act, the Guam Relief Act, and the 1947 Lombardo Agreement with Italy. As a matter of fact, other countries, such as Australia, Austria, Denmark, Italy, and the United Kingdom, make the nationality of the claimant immaterial in determining eligibility in their war damage compensation laws. Needless to say, all of the potential claimants who would benefit under the proposed amendment belong to various allied countries associated with the United States during World War II. Since these political refugees are deprived of the legal protection of the governments of their countries of origin, it is necessary that we depart from the principle of "continuity of nationality." This has already been recognized by the War Claims Commission:

> The Commission finds that the principle that a claim must be national in origin and national at the time of its presentation has no necessary application in the field of domestic war-damage legislation. In this field the Congress has absolute discretion in laying down rules governing the eligibility of claimants (83d Cong., 1st sess., H. Doc. 67, p. 120).

The Government of the United States has under its control frozen ex-Nazi German assets of approximately $260 million. These funds are to be used for compensation payments arising out of war claims, as provided by the War Claims Act of 1948, and will thereby prevent any additional burden from falling on the shoulders of the American taxpayer.

Legislation to include compensation of these Nazi victims under the War Claims Act of 1948 has been introduced in previous sessions of Congress, but none of the proposed amendments has yet been adopted. I therefore urge that this subcommittee take favorable action on H.R. 5395, which will be in the best tradition of the American spirit of justice and equity.

Mr. MACK. We appreciate your testimony, Mr. Collier. Thank you very much.

Mr. COLLIER. Thank you, Mr. Chairman.

Mr. MACK. The next witness is our colleague from Nebraska, the Honorable Glenn Cunningham. Mr. Cunningham, we are glad to have you.

STATEMENT OF HON. GLENN CUNNINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. CUNNINGHAM. Mr. Chairman and members of the subcommittee, I am pleased to have this opportunity to present my views to the subcommittee.

I think it is appropriate that this subcommittee should be considering the various proposals before it at this time, for many of the

bills under consideration concern the rights of individuals owning property in foreign countries.

Recently, we in this Nation have witnessed the wholesale denial of the right of American citizens and companies to own and possess property abroad. I refer to the action of the dictator Fidel Castro in Cuba, where millions of dollars' worth of American property has been seized without any justification or legal recourse.

This is pure and simple expropriation, and it is one reason this Nation has broken diplomatic relations with Cuba. Yet I must speak frankly and say that our hands are not clean, for this Nation still has personal and real property seized as a result of World War II.

This property belonged to German and Japanese nationals. It is being held because Congress has refused to accept the responsibility of deciding what will be done with it. It has been held for such a long period of years since the end of hostilities in World War II that the continued possession of this property by this Nation could well be termed expropriation.

In addition, the fact that this Nation continues to hold this property makes it difficult for this Nation to demand that foreign governments guarantee the safety of investments of Americans abroad—investments which are valued in the tens of billions of dollars.

It is only simple justice that we make every possible effort to return to the former owners or their heirs the seized property which was taken during World War II. This vested property, as it is euphemistically known, is now nothing more than expropriated property. And I might add that this Nation's continued refusal to recognize the moral and legal obligation it has to return this property is a constant source of friction with the West German Government and the Japanese Government.

It has been discussed at the highest levels between this Nation and the West German Government; yet the Congress has chosen to ignore the situation, to sweep it under the rug of apathy.

My bill H.R. 8305 would provide for full return of this seized property to its former owners or their heirs, with specific exceptions as follows:

1. Persons behind the Iron Curtain.
2. War criminals.
3. Foreign governments.

My bill would also tackle another problem left over from World War II, that of war claims for damages suffered by American citizens. Certainly these American citizens have also waited long enough to be repaid for damages caused by this global tragedy.

One problem involving both vested assets and war claims is money. My bill would provide that repayments of economic aid from West Germany and Japan to this country would be set aside on a 50–50 basis for payments of war claims to American citizens and for payment to the former owners of vested property which has been sold. Other vested property which has not been sold would be returned as soon as possible.

The real parties in interest in this legislation are the Americans who have or hope to acquire property. They are especially the Americans who own the $30 billion of American investments in foreign lands. They include the individual American owners of houses and

buildings in Europe and South America, the American shareholders in the great oil, manufacturing, and commercial corporations who have oil wells, plants, and offices in the Middle East, in Venezuela, in Mexico, in Guatemala, in Africa, in Europe, and everywhere that Americans have property interests.

Our Government has never condoned expropriation. It deplored the seizure of the Suez Canal and other private property of foreign nationals by Nasser in Egypt. In the words of the late Secretary of State John Foster Dulles:

> I would think that in an era when we expect [to have] the American interests abroad, American capital investments abroad, that it is wise for us to adhere ourselves strenuously to the highest standards of conduct in relation to those matters. That puts us in a better position to call upon others to apply the same standards.

As a nation the United States demanded no reparations from Germany or Japan following World War II. We received none. There are some who would use the proceeds from this seized property as reparations. But the clear answer to such a suggested policy is that such an action would actually be collecting reparations from some 40,000 citizens rather than from the whole nations, when we have agreed not even to take reparations.

Let us always remember that the seized property is not property which belonged to the defeated governments of Germany and Japan but to citizens of those countries who happened to have such property in the United States when the war began.

I dwell at greater length on seized property than on the subject of the payment of war claims because it is the more controversial and less understood issue. I do not believe there is much agitation to refuse payment of war claims to American citizens.

The two problems are naturally tied together since they resulted from the same tragedy—World War II. As the subcommittee members examine this problem more, I believe and hope that they will find that return of seized property and payment of war claims are two long-overdue actions which this Nation must take to protect its own citizens who have investments abroad and to be consistent in our policies in regard to the sanctity of private property.

Mr. MACK. Mr. Cunningham, we thank you for your appearance and the information given to the committee.

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

Mr. MACK. The next witness is another of our colleagues from Illinois, the Honorable Edward J. Derwinski. Mr. Derwinski, you may proceed.

STATEMENT OF HON. EDWARD J. DERWINSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. DERWINSKI. Gentlemen, I appear before you in support of H.R. 4411, which I introduced, and all similar bills now pending in this committee. It is my understanding that the bill receiving particular attention is H.R. 1190, introduced by Congressman Machrowicz of Michigan.

It was my privilege to appear before your committee in 1959 when extensive hearings were held on similar bills. Therefore, with the purpose in mind of saving your time, and in view of your knowledge

of the situation surrounding this legislation, I am limiting my remarks.

The point I wish to especially emphasize is that with the conditions created in Europe by the defeat of Nazi Germany and the unfortunate granting of control of Eastern Europe to Communist Russia, a great majority of the displaced persons, refugees, and servicemen were barred from returning to their native countries, and a great many found refuge in the United States. Most of them have become citizens of our country and are making an important contribution to our economic and cultural growth. A great majority of these people were citizens of Poland and Yugoslavia, who at that time were our wartime Allies.

We still have under our control the frozen Nazi assets of approximately $260 million under the international provisions of the War Claims Act of 1948, and we appreciate the fact that these funds are to be used for compensation payments arising from war claims. Ample testimony has been given to the authenticity of those claimants who fall into the following categories: (1) Prisoners of war, (2) ex-inmates of concentration camps and prisons, (3) forced laborers, and (4) internees.

Bearing in mind the basic humanitarian justice involved in this legislation, and the fact that the other body has before its similar proposals intending to provide, as we are here today, just compensation for the unfortunate victims of Nazi aggression, I respectfully urge the committee to give this matter thorough study so that we might still have time to process a bill in this session of Congress.

Mr. MACK. Thank you for your testimony, Mr. Derwinski. We appreciate your appearance.

Mr. DERWINSKI. Thank you, Mr. Chairman.

Mr. MACK. Our next witness this morning is the Honorable Edward D. Re, Chairman of the Foreign Claims Settlement Commission.

I might ask, before you proceed, Dr. Re, are there any other Members of Congress present who desire to testify this morning?

Dr. Re, you may proceed, sir.

STATEMENT OF HON. EDWARD D. RE, CHAIRMAN, FOREIGN CLAIMS SETTLEMENT COMMISSION

Dr. RE. Mr. Chairman, and members of the subcommittee, this is my first opportunity to appear before you in my capacity as Chairman of the Foreign Claims Settlement Commission. May I say that I consider this to be a great pleasure and a true privilege.

At the outset, Mr. Chairman, I would like to submit for the record a brief résumé of my background, as well as that of my two distinguished colleagues on the Commission. I refer to Commissioner Laverne Dilweg and Commissioner Theodore Jaffe, both of whom are present today.

Mr. MACK. I wonder if the Commissioners would stand up, please.

Dr. RE. Commissioner Dilweg and Commissioner Jaffe.

Mr. Chairman, I have long been familiar with the broad legal problems which confront your committee today. Upon assuming my duties as Chairman of the Foreign Claims Settlement Commission, I examined the specific proposals of the executive and legislative

branches of our Government designed to resolve the problems inherent in the settlement of war claims.

May I add that I am fully aware of the extensive hearings conducted by your committee and the Senate Judiciary Committee in the 86th Congress, as well as the excellent report submitted by your committee during the 2d session of that Congress.

During the course of the 84th Congress, when the first of the concrete proposals for the disposition of war claims was made to the Congress by the executive branch, favorable action was urged, among other reasons, because of the lapse of time since these losses had been incurred.

This reason was also submitted during the 85th and 86th Congresses. In the latter Congress your committee recognized the urgency for necessary legislation and by your action was successful in gaining House passage of H.R. 2485.

As you know, Mr. Chairman, there are currently pending before your committee three substantially comparable bills which address themselves to the broad general problem of war claims. These are H.R. 1117, H.R. 7283, and H.R. 7479.

H.R. 1117 is substantially identical to H.R. 2005 of the 86th Congress. The latter bill was before your committee during the course of the extended hearings a year ago.

The present administration bill, H.R. 7479, is substantially identical to H.R. 2485, which was transmitted to the Congress by the executive branch in the 86th Congress.

H.R. 7283 is identical with H.R. 2485, as passed by the House of Representatives in modified form.

I should like to address my remarks, Mr. Chairman, first to the substance of these measures, and then to conclude by referring to the other related measures currently pending before your committee, which propose amendments to the War Claims Act of 1948, as amended, and the Trading With the Enemy Act of 1917, as amended.

Specifically, I would like to discuss the administration measure, H.R. 7479, and to set forth the differences between that bill and the other two related measures.

By way of background, however, I believe it may be worthwhile to review briefly what has occurred in this field since the close of World War II.

I was very pleased to have heard the chairman state at the outset that the hearings today are really supplementary to those that took place in 1959, and I wish to add my voice to the remarks made by the chairman concerning the excellence of those hearings and the record reflecting what took place at that time. I found them most helpful in enlightening me as to the views of so many worthy groups and refreshing my recollection of the overall problem.

SATISFACTION OF AMERICAN CLAIMS ARISING OUT OF WORLD WAR II

In its supplementary report to the Congress on war claims arising out of World War II (H. Doc. 67, 83d Cong., 1st sess.), the former War Claims Commission observed that:

> The burdens of war do not fall equally on the people who are exposed to its hazards.

The Commission also pointed out that all war claims legislation is an effort by the Government to alleviate the burdens of war. Although the actual word used was "equalize," I believe that the word "alleviate" is perhaps better.

Our own Government, in a series of enactments, has authorized recoveries on various types of American war claims upon which payments of roughly $700 million have been made.

For the most part, these payments have been made for deaths, injuries, disabilities, and personal sufferings of individuals occurring largely in the Philippines. The beneficiaries have been, almost exclusively, former American military prisoners of war in various war theaters, and American civilian internees in the Philippines, Guam, Wake, and Midway Islands, or former U.S. nationals who became Philippine nationals on July 4, 1946.

These same classes of individuals, with the exception of millions of military veterans or their survivors who have received numerous various veterans benefits, substantially predominated the group which benefited from the enactment of laws authorizing substantial compensation for certain property losses occurring in the Philippines.

There were, of course, a great many recoveries under war risk insurance programs. These are distinguishable, however, from the pure war claims programs which provided for recoveries in the nature of gratuities.

Notwithstanding these efforts to ease the burdens of war, there remains a large segment of American war sufferers who have, to date, been bypassed in our Government's war claims programs. There are still more than 35,000 Americans whose investments abroad were taken or destroyed and who have received nothing by way of compensation or restitution for their losses.

Prior to World War II, these people were encouraged by our Government, in one way or another, to make these investments or to acquire such properties. Once acquired, however, these holdings could not, in all cases, be removed from areas of military operations or protected from military attack.

Just as many American civilians were trapped in the Philippines, Guam, Wake, and Midway Islands, so the property of other Americans was engulfed in the tides of war.

So far as these Americans are concerned, therefore, not only have the burdens of war not been lifted, but they have not even been partially relieved.

In my prepared statement, Mr. Chairman, I have set forth the World War I experience. I tried to summarize the materials appearing in the excellent documents submitted by the War Claims Commission (H. Doc. 67, 83d Cong., 1st sess.), and, of course, the splendid summary of these materials found in the report of your subcommittee (H. Rept. 1279, 86th Cong., 2d sess.).

I shall not repeat that experience except to say that it is the very basis and the heart of why we tried to cope with the World War II situation as we did.

HISTORY AND BACKGROUND

After the termination of the war, questions concerning Germany's reparations were settled by the Paris Reparation Agreement of 1946. Under this agrement the United States, as well as other Allied nations—excluding the Soviet Union and Poland—limited their in-

dividual demands against Germany largely to the assets located in their respective countries, and agreed to hold or dispose of them in such a way as to preclude their return to German ownership or control.

This was, of course, in lieu of reparations which the signatory nations did not favor in light of the Allied experience after World War I.

The signatory governments agreed that their respective shares of reparations—

as determined by the * * * agreement, shall be regarded by each of them as covering all of its claims and those of its nationals against the former German Government and its agencies, of a governmental or private nature arising out of the war (which are not otherwise provided for) * * *.

Congress thereafter enacted the War Claims Act of 1948, which implemented the policy of retaining vested German and Japanese assets for war claims purposes and, more particularly, devoted these assets to the relief of American military and civilian personnel who had suffered in enemy prisoner of war and concentration camps.

The policy of Allied retention of vested assets was subsequently recognized in the Japanese Peace Treaty, and was carried one step further in the Bonn Convention of 1952 between the Federal Republic of Germany and the United States, Britain, and France. In that convention, Germany agreed to compensate its own nationals for their los of property through the vesting action of the Allied Powers. The latter, in turn, committed themselves to forgo any claim for reparation against Germany's current production.

Those provisions of the Bonn Convention were reaffirmed in the Paris protocol of 1954, which brought about the sovereignty of the Federal Republic of Germany. The Paris protocol was approved in the Senate on April 1, 1955, and became effective on May 5, 1955.

The final action in this field is found in the 1956 Treaty of Friendship, Commerce, and Navigation between the United States and Germany. This reaffirmed the provisions of the Bonn Convention and added to them a further agreement of complete cooperation.

Mr. Chairman, I have appended to this statement a synopsis of principal laws of the United States authorizing compensation for property damages, death, detention, and disability benefits arising out of World War II, and attributable primarily to military operations.

I have also appended statements concerning recoveries for American war losses throughout the world, and the Commission's comments on related pending legislation.

I would now like to proceed directly to the current administration bill, H.R. 7479.

CURRENT MEASURES

This bill, H.R. 7479, would authorize the Foreign Claims Settlement Commission to process five types of claims of U.S. nationals for loss and injuries arising from military action in the European and Pacific theaters during and immediately prior to World War II.

Claims would be compensated from the net proceeds of enemy assets vested and liquidated under the Trading With the Enemy Act of 1917, as amended.

Awards based on disability or death would be paid in full. Initial payment on all other awards would be by periodic uniform installments, not to exceed $10,000 in the aggregate.

Where an award or the balance due on an award is less than any current installment, the award or balance due thereon would be paid in full. Payments in excess of $10,000 on account of awards in excess of that amount would be ratably proportioned under the bill.

CATEGORIES OF CLAIMS

Briefly, Mr. Chairman, the categories of claims that would be authorized under the bill are as follows:

There are five categories, the first of which concerns physical damage to or physical loss or destruction to property in the country or areas named occurring as a result of military action therein or special measures directed against the property because of the enemy or alleged enemy character of the owner.

Mr. MACK. Dr. Re, are you following your prepared statement?

Dr. RE. In essence, Mr. Chairman, this is a summary that can be gleaned from the letter of transmittal which I thought was somewhat more enlightening than the treatment found on page 9 of the prepared statement.

Mr. MACK. Very good. You may proceed.

Dr. RE. I thought it would be better to give more attention to detail than that which was found on page 9.

The second category, Mr. Chairman, would include damage to or the loss or destruction of ships or ship cargoes as a result of military action.

Category 3 covers net losses of maritime insurance underwriters incurred in the settlement of claims of insured losses on American-owned ships (not cargoes) lost, damaged, or destroyed by military action during World War II.

Four: Death, injury, and disability claims by American civilian passengers (not crewmembers) aboard torpedoed passenger ships in the period beginning September 1, 1939, and ending December 11, 1941, the date of the American declaration of war.

The fifth category, Mr. Chairman, covers losses resulting from the removal of industrial or capital equipment in Germany for reparation purposes owned by Americans on the date of taking.

The bill includes, among other things, an amendment to section 39 of the Trading With the Enemy Act concerning transfers by the Attorney General of net proceeds of liquidated enemy assets to the Treasury.

The bill also includes particulars as to areas and countries where losses occurred, types of properly involved, eligibility of claimants, and provisions concerning the effect of transfers or assignments, claims of stockholders, and the like.

A maximum of 20 months would be allowed in which to file claims, and completion of the program would be required within 5 years.

H.R. 7479 also contains a technical amendment to the Trading With the Enemy Act of October 6, 1917, as amended, authorizing the transfer, from time to time, of sums derived from the liquidation of property vested pursuant to such act into the existing war claims fund.

The bill also provides for the proportionate payment of awards made on account of such claims from the war claims fund.

In this respect, H.R. 7479 differs from the administration proposal submitted to the 86th Congress in that the proposal for a direct appropriation of the sum of $10 million for utilization in the settlement of claims which arose in the Pacific theater has been eliminated.

COMPARISON OF RESPECTIVE BILLS

The principal differences between H.R. 7479 and H.R. 7283 are as follows:

1. H.R. 7479 eliminates the provision contained in section 202(a) of H.R. 7283 for payment to awardees under the Philippine Rehabilitation Act of 1946, who could not accept such payment because of reinvestment requirements under that statute.
2. H.R. 7479 reinstates the provisions for reparations removal claims.
3. H.R. 7479 corrects the statement of "nationality of claimants" set forth in section 204 of H.R. 7283. The present provisions of section 204 were derived from H.R. 2485, 86th Congress, as transmitted by the executive branch. It erroneously states the international law principle in that it requires continuous U.S. nationality of claimants rather than of claims. This should be corrected to conform with previous legislation on this subject.
4. H.R. 7479 eliminates the tax credit deduction on corporate awards in excess of $10,000 provided for under section 206(b) of H.R. 7283.
5. H.R. 7479 increases the claims settlement period from 4 to 5 years.
6. H.R. 7479 omits the provisions for a bipartisan commission and terms of office for the commissioners.

On the other hand, Mr. Chairman, the third bill on this general subject matter, H.R. 1117, is of much more liberal application.

H.R. 1117, in general, provides for the use of the proceeds of former enemy assets but goes beyond the precepts of H.R. 7283 or H.R. 7479, in that it also provides for the utilization of postwar economic aid repayments from both Germany and Japan in the settlement of awards on the claims for which provision is made.

Under this bill, eligible claimants would include not only American citizens at the time of loss, but permanent residents of the United States at that time who had declared their intention of becoming American citizens and who are American citizens at the time of filing their claims.

Special eligibility requirements are also provded for in the case of religious societies or organizations.

The Governments of the United States and the Federal Republic of Germany have reached a separate agreement with respect to the repayment of postwar economic aid. It is therefore suggested that consideration of this source of financing for a claims program is no longer practicable.

With respect to the broadening of the nationality eligibility requirements proposed under H.R. 1117, it is further suggested that at no time has the Congress ever taken favorable action on such a vast departure from the traditional principle of international law.

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Mr. Chairman, as part of my transmittal of the administration proposal introduced in H.R. 7479, I furnished a general statement with respect to the purposes of the measures, as well as a sectional analysis of the bill. I would like to save the time that would be required to read this statement into the record. I would like to add, however, that I think the sectional analysis is very valuable and should be read to obtain a complete picture of the area I have attempted to summarize this morning.

CONCLUSIONS

Speaking for the administration as well as for the Commission, Mr. Chairman, I feel that far too long a period of time has been permitted to elapse with respect to these remaining outstanding claims.

We speak in terms of a lapse of 16 years since the cessation of hostilities. It is perhaps more accurate, however, to speak in terms of 21 or more years, Mr. Chairman, for, if we are to be fairly realistic, the persons who are to be eligible claimants under such a measure have been deprived of the use and enjoyment of their properties since the commencement of World War II, and not since the close of it.

By this, I do not mean to detract from the requirements of international law concerning the national identity of the claim from the date of actual loss. I do, however, wish to emphasize the fact that these claims ought to be settled without any further delay.

The problem ought to be brought to rest as quickly as possible. The time is now.

Accordingly, in light of all of the foregoing, I most strongly urge early and favorable action by the Congress on this important question.

If the chairman and the subcommittee wish, I would be pleased to comment very briefly on the related proposals amending the War Claims Act of 1948, as amended, and the Trading With the Enemy Act.

These materials have been submitted to the subcommittee as an appendix and I am prepared to comment on them if the committee feels it would be helpful.

Mr. MACK. Without objection, your entire statement will be received in the record.

Dr. RE. Thank you very much, Mr. Chairman.

If you agree that it need not be read, I would merely like to ask if there are any further questions I can answer at this time. If not, I would like to thank the committee for its courtesy, and the chairman in particular.

(The formal statement and attachments thereto follows:)

STATEMENT OF DR. EDWARD D. RE, CHAIRMAN, FOREIGN CLAIMS SETTLEMENT COMMISSION

Mr. Chairman and members of the subcommittee, this is my first opportunity to appear before you in my capacity as Chairman of the Foreign Claims Settlement Commission. May I say that I consider it a pleasure and a privilege.

At the outset, Mr. Chairman, I would like to submit for the record a brief résumé of my background, as well as that of my two colleagues on the Commission.

Mr. Chairman, I have long been familiar with the broad legal problems which confront your committee today. Upon assuming my duties as Chairman of the Foreign Claims Settlement Commission, I examined the specific proposals of the executive and legislative branches of our Government designed to re-

solve the problems inherent in the settlement of war claims. May I add that I am fully aware of the extensive hearings conducted by your committee and the Senate Judiciary Committee in the 86th Congress, as well as the excellent report submitted by your committee during the second session of that Congress.

During the course of the 84th Congress, when the first of the concrete proposals for the disposition of war claims was made to the Congress by the executive branch, among other reasons, favorable action was urged because of the lapse of time since these losses had ben incurred, this reason was also submitted during the 85th and 86th Congresses. In the latter Congress your committee recognized the urgency for necessary legislation and by your action was successful in gaining House passage of H.R. 2485.

As you know, Mr. Chairman, there are currently pending before your committee three substantially comparable bills which address themselves to the broad general problem of war claims. These are H.R. 1117, H.R. 7283, and H.R. 7479. H.R. 1117 is substantially identical to H.R. 2005 of the 86th Congress. The latter bill was before your committeee during the course of the extended hearings a year ago. The present administration bill, H.R. 7479, is substantially identical to H.R. 2485, which was transmitted to the Congress by the executive branch in the 86th Congress. H.R. 7283 is identical with H.R. 2485 as passed by the House of Representatives in modified form.

I should like to address my remarks, Mr. Chairman, first to the substance of these measures, and then to conclude by referring to the other related measures currently pending before your committee, which propose amendments to the War Claims Act of 1948, as amended, and the Trading With the Enemy Act of 1917, as amended.

Specifically, I should like to discuss the administration measure, H.R. 7479, and to set forth the differences between that bill and the other two related measures. By way of background, however, I believe it may be worthwhile to review briefly what has occurred in this field since the close of World War II.

SATISFACTION OF AMERICAN CLAIMS ARISING OUT OF WORLD WAR II

In its supplementary report to the Congress on "War Claims Arising out of World War II" (H. Doc. 67, 83d Cong., 1st sess.), the former War Claims Commission observed that "The burdens of war do not fall equally on the people who are exposed to its hazards." The Commission also pointed out that all war claims legislation is an effort by the Government to alleviate the burdens of war.

Our own Government, in a series of enactments, has authorized recoveries on various types of American war claims upon which payments of roughly $700 million have been made. For the most part these payments have been made for deaths, injuries, disabilities, and personal sufferings of individuals occurring largly in the Philippines. The beneficaries have been, almost exclusively, former American military prisoners of war in various war theaters, and American civilian internees in the Philippines, Guam, Wake, and Midway Islands or former U.S. nationals who became Philippine nationals, July 4, 1946. These same classes of individuals, with the exception of millions of military veterans or their survivors, who have received numerous various veterans benefits, very largely predominated the group which benefited from the enactment of laws authorizing substantial compensation for certain property losses occurring in the Philippines. There were, of course, a great many recoveries under war risk insurance programs. These are distinguishable, however, from the strictly war claims programs which provided for recoveries that were in the nature of gratuities.

Notwithstanding these efforts to ease the burdens of war, there remains a large segment of American war sufferers who have, to date, been bypassed in our Government's war claims programs. There are still more than 35,000 Americans whose investments abroad were taken or destroyed who have received nothing by way of compensation or restitution for their losses. In one way or another, prior to World War II, they were encouraged by our own Government to make these investments or to acquire such properties. Once acquired they could not, in all cases, be removed from areas of military operations or protected against military attack. Just as many American civilians were trapped in the Philippines, Guam, Wake, and Midway Islands, so the property of other Americans was engulfed in the tides of war. So far as these Americans are concerned, therefore, not only have the burdens of war not been lifted, but they have not even been partially relieved.

WORLD WAR I EXPERIENCE

Historically, the blocking of enemy assets in time of war did not have its origin in the United States. This country entered World War I long after the commencement of hostilities. By that time both its allies and its enemies had already enacted laws providing for the seizure of enemy-owned assets. When the United States declared war, Germany immediately seized all property of U.S. citizens located within its borders. It was as a result of this action that the Congress passed comparable measures. This statute became the Trading With the Enemy Act of 1916, which through amendment and implementation was made applicable during World War II.

No provision was made in this statute for the ultimate disposition of the seized World War I assets except that the problem was to be resolved by the Congress after the end of the war.

The Senate refused to ratify the Treaty of Versailles after the war. Among other things, that treaty provided that the Allied Powers should have the right to retain and liquidate all German-owned property within their respective borders, and that Germany would compensate its nationals for their losses.

The Knox-Porter resolution of 1921, terminated the state of war between the United States and Germany and further provided that the assets of Germany and its nationals, located in the United States, were to be retained as security for the obligation of Germany to settle the war damage claims of the United States and its nationals.

Subsequently, in the same year (1921) the United States and Germany entered into a separate treaty of peace signed at Berlin on August 21, 1921, which adopted the provisions of the Knox-Porter resolution. It also made applicable the assets agreements contained in the Treaty of Versailles.

In 1922 the United States and Germany entered into an agreement establishing the Mixed Claims Commission designed to process claims of U.S. nationals, but provided no means for satisfying the claims. Thereafter, the Dawes plan of 1924 came into being and Germany thereby agreed to pay reparations in annual installments to be used partially in satisfaction of awards made by the Mixed Claims Commission.

The Settlement of War Claims Act was enacted in 1928. It authorized the retention by the United States of 20 percent of the seized German assets as security for the payment of awards and the return of 80 percent. By 1929 as opposed to $257 million in awards, Germany had paid only about $33 million. The Young plan of 1929 superseded the Dawes plan and provided that Germany would pay into a special account a specified sum annually until 1981. After payment of three semiannual installments Germany defaulted in 1931.

By adoption of the Harrison resolution of 1934, Congress precluded further return of seized assets to Germany. However, of some $550 million seized during the war all but $60 million had been returned. The anomaly resulted that Germans who sustained losses were compensated to a far greater degree than were Americans. Payments on awards aggregated approximately $139.3 million.

UTILIZATION OF THE LIQUIDATED PROCEEDS OF VESTED ASSETS, WORLD WAR II

After the termination of the war questions concerning Germany's reparations were settled by the Paris reparation agreement of 1946. Under this agreement the United States, as well as other Allied Nations (excluding the Soviet Union and Poland), limited their individual demands against Germany largely to the assets located in their respective countries and agreed to hold or dispose of them in such a way as to preclude their return to German ownership or control. This was, of course, in lieu of reparations which the signatory nations did not favor in light of the Allied experience after World War I.

The signatory governments agreed that their respective shares of reparations "as determined by the * * * agreement, shall be regarded by each of them as covering all of its claims and those of its nationals against the former German Government and its agencies, of a governmental or private nature arising out of the war (which are not otherwise provided for) * * *."

Congress thereafter enacted the War Claims Act of 1948, which implemented the policy of retaining vested German and Japanese assets for war claims purposes and, more particularly, devoted these assets to the relief of American military and civilian personnel who had suffered in enemy prisoner of war and concentration camps. The policy of Allied retention of vested assets was subsequently recognized in the Japanese Peace Treaty and was carried one step

further in the Bonn Convention of 1952 between the Federal Republic of Germany and the United States, Britain, and France. In that convention, Germany agreed to compensate its own nationals for their loss of property through the vesting action of the Allied Powers. The latter, in turn, committed themselves to forego any claim for reparation against Germany's current production. These provisions for the Bonn Convention were reaffirmed in the Paris protocol of 1954, which brought about the sovereignty of the Federal Republic of Germany. The Paris protocol was approved in the Senate on April 1, 1955, and became effective on May 5, 1955. The final action in this field is found in the 1956 Treaty of Friendship, Commerce, and Navigation between the United States and Germany. This reaffirmed the provisions of the Bonn Convention and added to them further agreement of complete cooperation.

Mr. Chairman, I have appended to this statement a "Synopsis of Principal Laws of the United States Authorizing Compensation for Property Damages, Death, Detention, and Disability Benefits Arising Out of World War II, and Attributable Primarily to Military Operation."

I have also appended statements concerning "Recoveries for American War Losses Throughout the World," and the Commission's comments on related pending legislation.

CURRENT PROPOSALS

The administration bill

The bill, H.R. 7479, is designed to amend the War Claims Act of 1948, as amended (62 Stat. 1240; 50 U.S.C. App. 2001–2016), to provide for the payment of claims by U.S. nationals based on physical damage to, destruction or loss of, American-owned property as the result of military operations or special measures directed against such property located in Albania, Austria, Czechoslovakia, Free Territory of Danzig, Estonia, Germany, Greece, Latvia, Lithuania, Poland, Yugoslavia, and portions of Hungary and Rumania, or in territory occupied or attacked by the armed forces of the Imperial Japanese Government, during World War II, not heretofore compensated in whole or in part. The bill also authorizes the adjudication of claims with respect to damage to or loss or destruction of ships or ship cargoes as a result of military action; net losses of maritime insurance underwriters incurred in the settlement of claims of insured losses on American-owned ships (excluding cargoes) lost, damaged, or destroyed by military action during World War II; death, injury, and disability claims sustaind by American civilian passengers as a result of German and Japanese military action during the period September 11, 1939, and ending December 11, 1941; and losses resulting from the removal of industrial or capital equipment in Germany for reparation purposes, owned by Americans on the date of taking.

H.R. 7479 contains a technical amendment to the Trading With the Enemy Act of October 6, 1917, as amended, authorizing the transfer from time to time, of sums derived from the liquidation of property vested pursuant to such act into the existing war claims fund. The bill also provides for the payment of awards made on account of such claims proportionately from the war claims fund. In this respect, H.R. 7479 differs from the administration proposal submitted to the 86th Congress in that the proposal for a direct appropriation of the sum of $10 million for utilization in the settlement of claims which arose in the Pacific theater has been eliminated.

COMPARISON OF THE RESPECTIVE BILLS

The principal differences between H.R. 7479 and H.R. 7283 are as follows:

1. It eliminates the provision contained in section 202(a) of H.R. 7283 for payment to awardees under the Philippine Rehabilitation Act of 1946 who could not accept such payment because of reinvestment requirements under that statute.

2. H.R. 7479 reinstates the provisions for reparations removal claims.

3. H.R. 7479 corrects the statement of "nationality of claimants" set forth in section 204 of H.R. 7283. The present provisions of section 204 were derived from H.R. 2485, 86th Congress, as transmitted by the executive branch. It erroneously states the international law principle in that it requires continuous U.S. nationality of claimants rather than of claims. This should be corrected to conform with previous legislation on this subject.

4. H.R. 7479 eliminates the tax credit deduction on corporate awards in excess of $10,000 provided for under section 206(b) of H.R. 7283.

5. H.R. 7479 increases the claims settlement period from 4 to 5 years.

6. H.R. 7479 omits the provisions for a bipartisan commission and terms of office for the commissioners.

On the other hand, Mr. Chairman, the third bill on this broad general subject matter, H.R. 1117, is of much more liberal application. H.R. 1117, in general, provides for the use of the proceeds of former enemy assets and goes beyond the precepts of H.R. 7283 or H.R. 7479 in that it also provides for the utilization of postwar economic aid repayments from both Germany and Japan in the settlement of awards on the claims for which provision is made. Under this bill eligible claimants would include not only American citizens at the time of loss, but permanent residents of the United States at that time who had declared their intention of becoming American citizens and who are American citizens at the time of filing their claims. Special eligibility requirements are also provided for in the case of a religious society or organization.

The provision for the utilization of postwar economic aid repayments is a derivative of an executive branch proposal made in the 84th Congress, when it was sought to reach a compromise on the dual question of war claims and partial return of enemy assets. The proposal contained in that earlier legislation was rejected by the German Government, and consideration of that joint question has not been resumed. Moreover, the Governments of the United States and the Federal Republic of Germany have reached a separate agreement with respect to the repayment of postwar economic aid. It is, therefore, suggested that consideration of this source of financing for a claims program is no longer practicable.

With respect to the broadening of the nationality eligibility requirements proposed under H.R. 1117, it is suggested that at no time has the Congress ever taken favorable action on such a vast departure from the traditional principle of international law.

Mr. Chairman, as part of my transmittal of the administration proposal introduced as H.R. 7479, I furnished a general statement with respect to the purposes of the measure as well as a sectional analysis of the bill. It would be redundant at this juncture to reiterate the material contained in those two documents.

Speaking for the administration as well as for the Commission, it is felt that far too long a period of time has been permitted to elapse with respect to these remaining outstanding claims. We speak in terms of a lapse of 16 years since the cessation of hostilities. It is perhaps more accurate to speak in terms of 21 or more years, Mr. Chairman, for if we are to be fairly realistic the persons who are to be eligible claimants under such a measure have been deprived of the use and enjoyment of their properties since the commencement of World War II and not since the close of it. By this, I do not mean to detract from the requirement of international law concerning the nationality of the claim from the date of actual loss. I do, however, wish to emphasize the fact that these claims ought to be settled without any further delay.

Accordingly, in the light of all of the foregoing, I most strongly urge early and favorable action by the Congress on this important question.

APPENDIX I

SYNOPSIS OF PRINCIPAL LAWS OF THE UNITED STATES AUTHORIZING COMPENSATION FOR PROPERTY DAMAGES, DEATH, DETENTION, AND DISABILITY BENEFITS ARISING OUT OF WORLD WAR II, AND ATTRIBUTABLE PRIMARILY TO MILITARY OPERATIONS

War Claims Act of 1948, as amended (62 Stat. 1240; 50 U.S.C., App. 2001–2016)

Nine principal categories of claims were authorized under this act as follows:

1. Members of the Armed Forces of the United States held as prisoners of war in all war theaters.

2. Civilian American citizens captured and interned in the Philippines, Guam, Wake, or Midway Island or while in transit to or from any such island.

3. Death, injuries, and disabilities incurred by civilian American citizens qualifying for interment benefits.

4. Back pay for employees of contractors with the United States, under certain limitations, who were unable to fulfill their employment contracts.

5. Reimbursement for relief furnished by religious organizations in the Philippines which were affiliated with a religious organization in the United States.

6. Property damages to certain facilities of such organizations not used for worship, and property losses of Americans, including corporate entities in the form of sequestered bank accounts, deposits, and other credits.

7. Loses due to sequestration of American-owned bank accounts and other credits.

8. Losses from the reestablishment of American-owned bank accounts and other credits by banks and financial institutions regardless of their nationality.

9. Cancellation of U.S. Government repatriation loans to employees of contractors with the United States.

This act also authorized the Secretary of State to cancel U.S. Government loans made to employees of contractors with the United States for the purpose of food purchases, and costs of medical service furnished to the borrower during his period of interment or for the purpose of paying his transportation or other expenses of repatriation.

The aggregate number of payees under this act is estimated [1] as of December 31, 1958, as follows:

Claimants	Approximate number paid	Aggregate payments
Civilian detention benefits	11,652	$18,092,461
Prisoner-of-war compensation	179,578	123,397,604
Death, injury, and disability benefits (sec. 4 and 5(f))	6,000	[1] 25,450,162
Religious property losses and relief reimbursements	125	28,807,977
Sequestered accounts, deposits, and credits	3,167	10,570,917
Cancellation of loans (sec. 4(b))	60	50,550
Total [2]	200,582	205,369,671

[1] Aggregate actual payments as of Mar. 31, 1959. The estimated value of total potential payments, for which funds out of the war claims fund have been set aside amounts to $24,281,260.
[2] Accounts closed.

The act required payment of the above claims from the war claims fund, created by section 13 of the act, which was made up of the net liquidated proceeds of German and Japanese assets vested during World War II as enemy property under the Trading With the Enemy Act, as amended. All the above claims were received and settled by the former War Claims Commission, or its successor, the present Foreign Claims Settlement Commission, except those in categories 3 and 6 which are processed, respectively, by the Bureau of Employees' Compensation in the Department of Labor, and by the Department of State.

Philippine Rehabilitation Act of 1946 (60 Stat. 128; 50 U.S.C., App. 1751 et. seq.)

Under this act all types of property, damaged or lost in the Philippines as as result of military operations, were authorized to be settled, with certain exceptions, principally as to the nationality of the owner and as to property of the luxury type, accounts, bills, records, intangibles, and the like. The act was designed primarily to restore the Philippine economy. Payments were made from appropriated funds in full on claims of $500 or less and up to 52.5 percent of allowable amounts on claims in excess of $500. Total payments on all claims, numbering approximately 1,250,000, amounted to about $390 million. Of the amounts paid it has been reported that about $20 million was paid on 2,600 claims of American citizens. Claims under the act were processed by the Philippine War Damage Commission which went out of existence March 31, 1951.

Guam Relief Act of November 15, 1945 (59 Stat. 582)

Under this act the Secretary of the Navy was authorized to establish a Commission to settle claims by permanent residents of Guam (nationals of the United States) on account of the loss, damage, or destruction of private property as a result of World War II hostilities or enemy occupation of Guam, or the noncombat activities of the U.S. military personnel. The maximum payable was fixed at $5,000. Records are not presently available of the number of American citizens or nationals paid. Total payments, however, were $1,440,076.70 as of 1952, when the program was virtually completed.

[1] Records do not readily reflect the exact number of payees for the reason that in many cases a single claimant may have received awards under more than one section of the act or may have received additional payments on one claim because of administrative adjustments due to corrected records, etc.

Reconstruction Finance Corporation Act (55 Stat. 249)

Through a system of insurance and reinsurance, the War Damage Corporation, known originally as the War Insurance Corporation, which was created pursuant to the authority contained in section 5(d) of the Reconstruction Finance Corporation Act, provided protection against loss or damage from enemy attack to real or personal property in the United States, its territories or possessions. Claims paid for damages in continental United States were primarily for explosion damages, many of which arose out of an explosion of a destroyer in New York Harbor. Claims paid in the territories or possession were largely for losses sustained by individual workmen in those areas. Total payments under all programs amounted to $1,274,744.29 on 1,782 claims. There is no record of the number of Americans paid but presumably they received at least 75 percent of these payments. Upon liquidation the Corporation was able to show an operating profit of $210,598,722.38.

Merchant Marine Act of 1936, as amended by Public Law 677, 76th Congress (54 Stat. 689)

This act, approved June 29, 1940, amended the Merchant Marine Act of 1936 to provide for marine war-risk insurance and reinsurance and for marine risk reinsurance for ships, cargoes, and personnel. It was administered by the U.S. Maritime Commission and financed out of a revolving fund in the Treasury consisting of premium receipts augmented by appropriations from general funds in the Treasury. The act was designed to operate whenever it appeared that comparable insurance could not be obtained otherwise on reasonable terms or conditions. Insurable risks were limited to American registered private vessels, Government-controlled commercial vessels, cargoes, disbursements, freights, and passage money, personal effects (up to $300 in value) a well as the life (up to $5,000) or possible injury or disability of crew members. An important exception, however, was the proviso that in event the then existing neutrality laws should be suspended no vessel carrying contraband, or its cargo, could be insured. In effect, the Neutrality Act of 1936, barring such U.S. shipments to belligerent countries, by virtue of an amendment in November 1941, and a revised lend-lease policy, was inoperative before the end of American neutrality on December 7, 1941. The act was due to expire by its own terms on March 10, 1942, but was extended to 6 months following the termination of the war. Total insurance written was $30,098,832,711. Total losses paid to insured Americans were somewhat in excess of $300 million. Net premiums received from all insureds totaled $544,423,282.

Act of March 24, 1943, as amended (57 Stat. 47)

This act created a supplemental maritime war-risk insurance program administered by the War Shipping Administration to compensate uninsured crew members and passengers on vessels owned by, chartered to or operated by or for the account of, or under the direction or control of the Maritime Commission, the War Shipping Administration, or the War Department. Losses or injuries covered were compensable only if related to the war effort and otherwise insurable under the Merchant Marine Act of 1936, as amended. Function of the War Shipping Administration were transferred to the Maritime Commission, September 1, 1946. Payments under this act are included in the totals shown above under the Merchant Marine Act of 1936, as amended.

Japanese Evacuation Claims Act (Public Law 886, 80th Cong., approved July 2, 1948; 50 U.S.C. App. 1981, et. seq.)

Under this act compensation was authorized up to $2,500 (subsequently increased to $100,000 by Public Law 673, 84th Cong.) for unreimbursed losses from damage or loss of real property as a reasonable and natural consequence of the evacuation of persons of Japanese ancestry (including American citizens), and certain corporate entities owned by such persons. The number of Americans paid has been estimated at 13,000 with estimated aggregate payments to them totaling $18 million from appropriate funds. The act was administered by the Attorney General, although in certain cases the U.S. Court of Claims had jurisdiction over such claims.

International Claims Settlement Act of 1949, as amended (64 Stat. 12; 22 U.S.C. 1621, et. seq.)

This act authorized compensation on a prorated basis for the failure of Bulgaria, Hungaria, or Rumania to compensate in domestic currency for the injury or damage to American-owned property in these three countries up to two-thirds

of the loss as required by identical provisions in the treaties of peace with these countries. Final awards to Americans, as of December 31, 1958, numbered 963 in the aggregate amount of $11,478,807, of which not over 200 awards included an award for war damages to property. The aggregate of such war damage can only be estimated at approximately $260,000 since the types of losses for which payments were certified were not separately recorded. The act also authorized compensation, on a prorated basis, for loss or damage to American-owned property in Europe and the Mediterranean countries and for losses at sea as a result of the war in which Italy was engaged (i.e., attributable to Italian military action) from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy. Final awards to Americans, on these Italian claims, as of December 31, 1958, totaled 408 in the aggregate amount of $1,788,728, representing compensation for war damage to American-owned property and losses attributable to personal injuries, deaths, etc.

Military Personnel Claims Act of 1945, as amended (59 Stat. 225; 31 U.S.C. 222c and note)

This act authorized recoveries up to $2,500 (subsequently increased to $6,500) by military personnel and civilian employees of the military services for their personal property lost, damaged, captured, or abandoned, occurring as an incident to their service, in the absence of negligence or wrongful act on their part, and if occurring outside their quarters within continental United States, after December 7, 1939. It was required, further, that the property must be found to be reasonable, useful, necessary, or proper under the given circumstances. All claims were payable from appropriated funds allocated to the respective military departments charged with the administration of the act. Records are not available as to the proportion of total payments made for strictly war losses or damages but it has been estimated that roughly 3,600 such claims out of a total of about 65,000 claims allowed prior to 1953 (Korean hostilities) represented actual combat-connected or direct World War II losses, and that payments for such losses would approximate $1,500,000.

Appendix II

Recoveries for American War Losses Throughout the World

This Commission, and its predecessor, the War Claims Commission, have examined into the extent of recoveries for American war losses throughout the world. The absence of records showing the nationalities of the payees under these laws makes it impossible to determine the number or amount of awards to nationals of the United States. It appears, however, that recoveries were relatively small.

Under German laws, for example, although certain U.S. nationals are eligible for recoveries on a restricted basis, only a nominal number, probably less than 50 American nationals, are recorded as having received compensation for their losses under these laws. French authorities have reported that while some Americans may have been paid, it would be almost impossible to ascertain the exact number without examining the many thousands of claims processed.

Thirty-three countries have enacted war claims legislation in the decade following World War II. Of these, only 13 were found which afforded relief, or possible relief, to American claimants for property losses. These countries are Australia, Austria, Belgium, Canada, Denmark, France, Malaya, Malta, the Netherlands, Norway, Switzerland, Thailand, and the United Kingdom. There may now be added the Federal Republic of Germany which, in 1956, enacted a new law for the victims of Nazi persecution including, with certain limitations, nationals of the United States, who for the most part acquired that status after World War II.

Little uniformity was found in any of these laws, either as to types of losses or eligibility of claimants, except that real estate and business losses were consistently recognized in all of them. In the case of Belgium, France, the Netherlands, Switzerland, and Thailand, for example, recoveries depend upon the existence of reciprocal claims agreements between those countries and the United States. The requirements as to residence of the claimant and location of the property vary considerably in all of the 13 countries.

Under these reciprocal agreements, it is mutually agreed that the war claims of nationals of each signatory country will be recognized by the other by appropriate legislation with respect to losses or damages sustained in the territories

of either. In the case of agreements made by the United States, losses or damages sustained in the Philippine Islands were expressly excluded. Although enabling legislation has been enacted in each country with which an agreement has been concluded by the United States, no comparable legislation has been enacted by our country which would benefit the nationals of the five countries named.

In addition to the domestic laws of the 13 countries which may extend eligibility for war loss recoveries to nationals of the United States, the treaties of peace with Japan and Italy also make provision for American war claimants, many of whom have received fairly substantial compensation thereunder for losses and damages occurring in Italian territory.

Actual World War II recoveries by American citizens, or entitlement to recoveries, on a geographical basis, may be summarized as follows:

Australia

In general, claimants, including U.S. nationals, were entitled to recover the replacement value of their property up to the amount they had contributed under a program of levies for this purpose. Maximum recoveries were possible up to $20,000. No compensation was made for certain specified items such as money, negotiable instruments, documents of title, etc.

Belgium

U.S. nationals who had that status at the time of their loss and on the date of the reciprocal agreement with the United States (Mar. 12, 1951) were eligible for war damage compensation except as to property classed as luxury items, money, securities, etc. The extent of recoveries depended upon the category of the claimant as determined by the size of the claimant's estate and other limitations under the applicable law.

Canada

Under an insurance plan any insured person or firm could be compensated to the extent called for under his contract. Free insurance was available up to $3,000 for a dwelling and up to $800 for a household chattel. The insurance was against the ordinary perils of war. Payments were made from the proceeds of premium payments supplemented by a $5 million appropriation.

Central and Southeastern Europe

Under the separate treaties of peace with Bulgaria, Hungary, and Rumania these countries became obligated to pay certain categories of war claims by Allied nationals for losses and damages sustained in these countries, and to restore or compensate for the wartime removal or confiscation of identifiable property so situated or held in any third country by persons subject to its jurisdiction. These countries failed, however, to meet these obligations with the result that the Congress, in Public Law 285, 83d Congress, authorized the vesting of certain assets of these countries in the United States to the extent of some $41 million and at the same time provided for the settlement of such claims by the Foreign Claims Settlement Commission to the extent of funds available from this source. Because such war damage payments are intermingled, in many cases, with payments for other types of authorized losses in the same awards, it has not been possible to segregate and compile total payments under this law to American war damage claimants although it is believed the amount probably will not exceed $260,000 to possibly 200 claimants.

War losses by Americans in these and other European and Mediterranean countries are also compensable under Public Law 285 but only if the loss or damage can be shown to have resulted from Italian action in World War II. Compensation for losses in these latter areas has been authorized by the Commission but again, the intermingling or consolidation in a single award of all compensable losses prevents ascertaining the extent of particular recoveries. It is estimated that about 390 awards have been made for war damages to property under this program with payment on these as of December 31, 1958, aggregating roughly $1,700,000.

Denmark

Any person whose property was, on December 22, 1939, insured against fire automatically became eligible, by operation of law, for fire damage to buildings caused by military operation, and war damages to stocks in trade, chattels, and personal effects similarly insured. Foreign owners of property in Denmark were eligible along with Danish nationals if they carried such insurance and met other requirements of the law. Other Danish laws also provided special

types of war damage compensation with nationals of foreign countries eligible under certain prescribed conditions.

France

Nationals of countries with which France concluded reciprocal agreements relative to war damage compensation, including the United States (agreement effective May 28, 1946), were eligible to receive compensation, under certain limitations, from war damages to their property in France. This was primarily a rehabilitation statute with the extent of recoveries sharply limited under a system of priorities and exclusions. Compensation for real property damages, for example, was computed by applying reconstruction coefficients to 1939 values. No compensation was provided for property having no economic value. Only in a very limited sense was the principal of indemnity recognized. By virtue of the reciprocal agreement American losses in the French territory of Algeria were recognized but because the United States declined to recognize French or other foreign owned damage claims in the Philippines, the French law did not cover American losses in Algeria.

Italy

American war damage claims for all types of property lost or damaged in Italy proper or Italian waters were compensable by article 78 of the Treaty of Peace with Italy, pursuant to which Italy agreed, among other things, to compensate or restore all property or interests therein. Pursuant to this obligation American claims are presented either directly by the claimant to the Italian Ministry of Finance, or to this Ministry indirectly through the American Embassy in Rome. Disputes as to the Ministry's decisions are referred to a conciliation commission consisting of one American, one Italian, and one representative of a neutral country.

Japan

Under the Treaty of Peace with Japan losses of, or damage to property owned by nationals of the Allied Powers on the mainland of Japan, i.e., the islands constituting the Japanese Archipelago, were to be compensated by Japan. Pursuant to this obligation, Japan, by subsequent enactment of enabling legislation, entitled the "Allied Powers Compensation Law," provided for the receipt and settlement of such claims which included those based upon physical damage, confiscation, and seizures. The property included consisted of real and personal property of all types, patents, trademarks, debts, and shares. Recovery was provided for damages resulting from hostile acts, special wartime measures, maladministration, neglect, or the inability of the owner to obtain insurance.

Malaya

Any person or judicial entity was an eligible war damage claimant under the Federation of Malaya War Damage Ordinance No. 56 of 1949, as amended. Damages must have occurred between December 1, 1941 and March 31, 1946. Money, debts, securities, loss of profits, etc., were not subject to compensation. A supplemental war-risk insurance program provided other compensation for insured property. Payments were made from a common war damage fund of 435 million Malayan dollars which was available for claims arising both in the Federation and the Crown Colony of Singapore.

Malta

Any person or juridical entity was an eligible claimant for war damages to property in Malta under local ordinances, except as to losses of money or securities. Payments were made under an insurance scheme supported by special taxes on real and personal property. Death and injury claims were also compensable.

The Netherlands

As in the case of France compensation to U.S. nationals for war damages to property in the Netherlands was covered by a reciprocal agreement with the United States, or upon their participation in a program of mutual insurance. In addition, 10 million florins were set aside for the benefit of dependents of individuals, regardless of nationality, who died resisting the Germans. The extent of property damage recovery was related to the size of the claimant's capital or estate. No recoveries were allowed for loss or damage to so-called luxury items, cash, intangibles, and for nominal losses of household or professional goods where the claim is for less than $13 (50 florins), except under special orders.

North Africa

American war losses or property damages in the countries of North Africa have thus far, in the administration of Public Law 285, proven to be of little consequence. To the extent that such losses may have occurred, and could be established, they would doubtlessly be compensable under that law. In Eritrea, for example, the American consulate for that area has reported that the only American war losses were indirect losses of certain American shareholders in a single Italian corporation and that these claims have been paid. The source of payment was not indicated.

Algeria

War losses there were included in the basic French war damage legislation. Although American losses in France itself, recognized by virtue of the reciprocal agreement between France and the United States, it was not implemented as to American losses in Algeria because the United States in its war damage legislation excluded from the agreement losses by foreign nationals occurring in the Philippines.

Norway

Under the war damage laws of Norway, discretion was vested in the appropriate Norwegian authorities to permit recoveries by nationals of foreign countries. The claims of American nationals were thus recognized and paid where they were otherwise compensable. No compensation was provided for so-called luxury items or property having no economic value. Various war-risk insurance schemes also provided for limited compensation to Americans for their insured losses. The risk period for both insured and uninsured losses was April 8, 1940; property had to be insured against fire to qualify for war damage compensation. In general, compensation was available from the proceeds of insurance premiums and covered any material destruction from hostilities including fire, explosion, crash, flooding, capture, internment, or embargoes. A flexible formula for calculating payments was provided.

Philippines

This is presented separately under the heading "United States, its Territories and Possessions."

Switzerland

Pursuant to the reciprocal agreement with Switzerland dated November 25, 1950, American nationals became eligible and may still be eligible to apply to Switzerland for war damage compensation with respect to property in Switzerland damaged as a result of the violation of Swiss neutrality. A central fund was made available consisting of the proceeds of premiums paid on war-risk insurance policies and indemnity received from countries responsible for the violation of such neutrality. Claims up to 500,000 Swiss francs were paid in full under the fire insurance laws. Personal property damages and personal injuries were compensated at the rate of 80 percent of the assessed damage by way of "financial assistance" from funds contributed by the confederation and the canton where the property was situated or where the injured person resided.

Thailand

The United States and Thailand entered into a reciprocal agreement which, in lieu of domestic war damage legislation, permitted recoveries by American nationals in full for property losses or damage of any kind occurring between December 8, 1941, and August 7, 1945, in Thailand's territorial limits. In general, the measure of compensation was three times the prewar value of the property plus 4 percent interest from the date of the loss.

United Kingdom

Under a series of insurance laws beginning with the War Risks Insurance Act of 1939, effective September 3, 1939, Great Britain provided comprehensive insurance and reinsurance coverage for damage to property and injury to persons without restriction as to the nationality of the insured. Compulsory insurance was required on commodities exceeding £1,000 (£200 in the case of foodstuffs). Voluntary insurance was available with respect to property thought to be relatively indestructible such as gas, water, coal, or items of high intrinsic value, such as jewelry, works of art, etc. There was also established separate marine

insurance programs on hulls and cargoes, building damage, business damages, and losses or damage to certain items of personal property. Various funds were established for payment of claims with deficits to be made up out of the national treasury.

United States, its territories and possessions

1. *In general.*—Property loss and damage claims by American property owners as well as civilian internment, injury, disability, and death claims were authorized and settled under a series of wartime and postwar statutes. There is no separate record of the exact number of American payees or total payments made under these acts for losses in these areas but a reasonable estimate based upon available data indicates that fully 240,000 or more American citizens, including approximately 125 religious organizations in the Philippines, received aggregate recoveries or benefits totaling in the neighborhood of $500 million including World War II prisoner of war extra per diem compensation totaling $132,607,898 paid to 179,578 former American prisoners or survivors of deceased prisoners, principally in the Pacific theater. Payment of nonprisoner of war claims described above were made chiefly from appropriated funds augmented by, or in some cases, derived from premium receipts under contracts of insurance. Roughly 40 percent of the payments in these areas on nonprisoner of war claims, came from the net proceeds of liquidated enemy assets vested under the Trading With the Enemy Act, as amended. All World War II prisoner of war payments were likewise made from the proceeds of such assets.

2. *Alaska.*—Under section 5(d) of the Reconstruction Finance Corporation Act which was added by Public Law 506, 76th Congress, 207 American property owners were compensated by the War Damage Corporation for war damages to their property in the aggregate amount of $80,060.05.

3. *Guam.*—An aggregate of $1,707,558 was paid to several thousand permanent residents of Guam (nationals but not citizens of the United States) under the Guam Relief Act of November 15, 1945 (59 Stat. 582) and by the War Damage Corporation under the Reconstruction Finance Corporation Act.

4. *Hawaii.*—For damages to American-owned private property in Hawaii, the War Damage Corporation settled 198 claims resulting in payments totaling $219,015.02.

5. *Philippine Islands.*—Virtually all United States war damage or relief laws were operative as to losses, damages and personal sufferings occurring in the Philippines. In some cases, such as payments on marine losses, or under the Military Personnel Claims Act, awards were not recorded on an area basis, making it impossible to determine exactly the extent of compensation or benefits to American citizens paid in this area. It is estimated conservatively, however, that the total will approximate $75 million.

The Philippine Rehabilitation Act of 1946 was restricted exclusively to property damages in the Philippines while the War Claims Act of 1948 was very largely confined to such claims and to payment of death, injury, disability, and detention benefits to individuals who resided there at the outbreak of World War II. Under these two acts alone an estimated $225 million was paid to about 200,000 American citizens exclusive of former U.S. nationals in the Philippines who became Philippine nationals July 4, 1946. Total payments under the Philippine Rehabilitation Act were made to approximately 1,250,000 claimants in the aggregate round figure total of $390 million. Of these payments it has been estimated that payments to Americans who were U.S. citizens at the time of their losses equalled roughly $20 million. Almost all remaining payments or roughly 1,200,000 were made to Philippine nationals.

United States, continental limits

War losses or damages occurring within the continental limits of the United States were confined almost exclusively to those sustained in connection with the evacuation and internment of persons of Japanese descent, many of whom were citizens of the United States at the time. Although their losses, including losses by corporate entities owned by them, did not arise through enemy action they were nevertheless losses arising directly out of the war and were compensable under the Japanese Evacuation Claims Act, approved July 2, 1948 (50 U.S.C. App. 1931 et. seq.). This act authorized compensation to interned American citizens of Japanese descent up to $2,500 (subsequently increased to $100,000 by Public Law 673, 84th Congress) for unreimbursed losses from damage or

loss of real or personal property as a reasonable and natural consequence of their evacuation. It is reported that approximately 13,000 American citizens were paid an estimated $18 million on claims filed under this act.

APPENDIX III

RELATED PENDING LEGISLATION

AMENDMENTS TO THE WAR CLAIMS ACT OF 1948, AS AMENDED

H.R. 1190 (Machrowicz)

Proposes to add new sections 18 and 19, which would extend prisoner of war and civilian internee benefits to members of the armed forces of allied countries and to individuals who were imprisoned contrary to international law standards, respectively. Also eligible to receive internee benefits would be those individuals who were interned and forced to perform forced labor. Benefits would be available to individuals under sections 4, 5, 15, and 16 of the act if unable to qualify under the foregoing provisions. Claimants must be U.S. nationals or permanent residents of the United States on date of enactment.

The Commission is opposed to this measure because the war claims fund should first be used to settle war damages of those who were citizens on the date of loss, otherwise there would arise inequities due to the limited size of the fund.

H.R. 2454 (Bailey)

Provides payment of claims in amount not to exceed $25,000 to survivors of members of U.S. Armed Forces who died as a result of the violation of German and Japanese military forces of their obligation to cease hostilities after World War II.

The Commission is opposed to this bill since the Congress has already provided compensation for deaths incident to military service under laws relating to veterans. Persons in this category would gain an undue advantage. Moreover, it would discriminate against others who died under unusual circumstances, such as the attack on Pearl Harbor.

H.R. 3943 (Becker)

Provides $2.50 per day to members of the U.S. Armed Forces for each day spent in hiding to prevent capture or recapture by enemy during World War II or concealed himself during the Korean conflict to avoid capture. Evadee claims.

The Commission is opposed to enactment of this bill inasmuch as it is a departure from the rationale for the prisoner of war claims justified under the precepts of the Geneva Convention of 1929. Furthermore, as written, the bill would appear to put a premium on shirking military responsibility.

H.R. 4753 (O'Brien)

Provides death, disability, and detention benefits under section 5 of the act to Guamanians at Wake Island or their survivors. Involves 45 Guamanians.

The Commission is not opposed to this measure. It feels that enactment is a matter of legislative policy. The few claimants involved were excluded from earlier coverage because they were unable to meet the requirement of U.S. citizenship at the time since Guamanians were then nationals but not citizens.

H.R. 4754 (O'Brien)

Amends section 4 of the act to provide benefits to certain contractors' employees for back pay. Bill would place Guamanians and others who were locally hired within the same wage scale as U.S. citizens who were sent overseas to perform defense base work. Claims under jurisdiction of Bureau of Employees Compensation, Department of Labor.

The Commission is opposed to this bill basically because of the extent to which it would dilute the fund recommended for use in settling claims provided for under H.R. 7479.

AMENDMENTS TO THE TRADING WITH THE ENEMY ACT OF 1917, AS AMENDED

H.R. 1078 (Robison)

Relates to sale of property affected by litigation contemplated by section 9(a) in time of war or national emergency and the disposition of the proceeds of any such sale. (Debt claims by nonenemy against property or money seized by Office of Alien Property, section 9(a).)

The Commission takes no position on this bill since it does not affect the Commission's functions.

H.R. 1185 (Hiestand)

Amends section 32(a) by permitting return of trust funds established prior to December 7, 1941, by American citizens for the benefit of enemy nationals.

The Commission opposes this measure since it would reduce in some degree assets available for transfer into the war claims fund for payment of war damage claims.

H.R. 1984 (Utt)

Provides for return of property vested under section 32 in the case of individuals who resided in Formosa during World War II and were employed for 30 years or more by American firms.

The Commission takes no position relative to this measure and would object only to the extent that it would materially reduce funds available for transfer to the war claims fund. The Commission is without information upon which to estimate the extent of the amounts of money involved.

H.R. 3866 (Baring)

Amends section 32(a)(2)(d) in that it would provide for a new category of individuals eligible to file for return of assets. Such individuals are those who had acquired U.S. citizenship since the property was vested.

The Commission is opposed to this bill. Payment should first be made to war damage claimants before new classes, as created under this bill, are considered.

H.R. 5028 (Mack)

This bill would provide for certain payments for the relief and rehabilitation of needy victims of Nazi persecution. It involves the stated sum of $500,000. The bill received favorable action in the House during the 86th Congress along with H.R. 2485.

Although the Commission is very sympathetic with the beneficial nature of this proposal, it would nevertheless tend to deplete the War Claims Fund in the amount stated. Accordingly, the Commission is inclined to take no position as to enactment.

Mr. MACK. It has been made a part of the record. If the members desire they can pursue the subject further.

Dr. RE. Thank you very much.

Mr. MACK. I have one question I would like to ask.

At the time the Chairman of the Foreign Claims Settlement Commission appeared before our committee in 1959, he submitted for the record a statement of war claims fund analysis as of April 27, 1959. That is on page 114 of the hearing.

Dr. RE. Yes, Mr. Chairman.

Mr. MACK. I am wondering if you are prepared to submit a similar statement.

Mr. RE. It is in the process of being prepared. I have asked for such a statement and it will be submitted to the subcommittee and can, at your instance, be appended to the record.

Mr. MACK. Without objection, then, it will be included in the record.

Mr. RE. Thank you, Congressman Mack.

(The document referred to follows:)

War claims fund analysis as of June 30, 1961

Total deposits to the war claims fund	$228,750,000
Withdrawals:	
Payment of claims, BEC	23,410,954
Payments of claims, FCSC	181,360,495
Administrative expenses, BEC	711,224
Administrative expenses, FCSC	5,331,279
Repayment of loans, State Department	50,550
BEC future payments	17,500,000
GAO certificate of settlement	70
Total withdrawals	228,364,572
Actual balance June 30, 1961	385,428
Anticipated transactions:	
Payment of claims, FCSC, fiscal year 1962	40,000
Administrative expenses, FCSC, fiscal year 1962	40,000
Total anticipated transactions, fiscal year 1962	80,000
Estimated balance June 30, 1962	305,428

Mr. MACK. Are there any questions?

Mr. DINGELL. Doctor, are you familiar with the status of the litigation involving General Analine and how the interests of the U.S. Government are going in that regard?

Dr. RE. Congressman Dingell, I am not officially familiar with that case, since, as you know, it is a matter properly coming within the jurisdiction of the Justice Department. Consequently, I would prefer not to comment on it because it does not come within the responsibility of my agency, the Foreign Claims Settlement Commission. I am sure that, if you wish, someone from the Department of Justice would be most happy to testify in this matter.

Mr. DINGELL. Very well, Doctor.

There are a couple of other questions I would like to ask you.

With regard to the bill of my good friend and colleague, the Honorable Thaddeus M. Machrowicz, H.R. 1190, will you tell us how your agency reported on that bill?

Dr. RE. I shall be happy to do so.

This bill, H.R. 1190, proposes to add new sections 18 and 19, which would extend prisoner-of-war and civilian-internee benefits to members of the Armed Forces of allied countries and to individuals who were in prison contrary to international law standards, respectively.

Also eligible to receive internee benefits would be those individuals who were interned and forced to perform forced labor.

Benefits would be available to individuals unable to qualify under the foregoing provisions under sections 4, 5, 15, and 16 of the act.

Claimants must be U.S. nationals or permanent residents of the United States on the date of enactment.

The Commission reported on that bill and was opposed to the measure because it was felt that the war claims fund should first be used to settle war claims of those who were citizens on the date of loss. Otherwise inequities would arise due to the limited size of the fund.

That is the prepared statement that I had with relation to H.R. 1190.

I heard the eloquent presentation made by Congressman Machrowicz, and I believe that we share sympathies. There is no doubt that we are dealing with meritorious and worthy groups of claimants here.

However, I believe that in his oral presentation Congressman Machrowicz made several statements that would have tended to eliminate or remove some of the more objectionable features of the bill in its present form. I frankly, therefore, do not feel prepared to comment on the bill that he might wish to introduce in the future, or on the amendments he might wish to suggest to the present H.R. 1190.

Our position on H.R. 1190 is clear and firm.

Mr. DINGELL. In substance, then, your report on H.R. 1190 is unfavorable because of the inadequacy of funds to meet claims of American citizens. Am I correct?

Dr. RE. That is only one phase of it, Congressman Dingell. The other phase is that it does depart radically from the traditional view as to who are eligible claimants.

Mr. DINGELL. You mean with regard to citizenship?

Dr. RE. With regard to citizenship.

Mr. DINGELL. Now, Dr. Re, if the provision with regard to the position of claimants under H.R. 1190 is so changed as to permit those people to come in as junior to persons who were American citizens at the time that the loss occurred, this would substantially reduce your objection to the bill; would it not?

Dr. RE. Well, Congressman Dingell, if we are dealing with degrees of objection, I would have to say yes, although this question of nationality has been rather thoroughly discussed and set forth in the hearings. The report of the hearings contained the statement of Mr. English of the State Department and a statement entitled "Matters of Nationality With Respect to International Claims." I believe it is on page 699. There is also a statement in the record by Secretary of State Fish. The statement is found on page 190 of the hearings. We feel that these statements represent the traditional and applicable principles of international law.

You will also find in those hearings statements to the effect that this is a matter dealing with legislative policy.

Mr. DINGELL. Let us not treat of the proposition of nationality.

Are you familiar with my questioning of Mr. English on this thing? I gave him quite a workout on this.

Dr. RE. I know you did. I hope you will be more kindly disposed toward me. You were able to extract from Mr. English, however, a forthright statement that this is a matter coming within the power of Congress. If Congress wishes to do something with relation to a worthy group as a matter of grace, that, of course, is a perfectly clear and forthright answer.

As for the Commission, I can say this: If Congressman Machrowicz were to amend his bill, we would, of course, be very pleased to review our position and submit a new report.

Mr. DINGELL. Let us talk specifically. As you recall, I said to Mr. English that what we are really doing is handling funds which have been seized by the United States and which were vested in the Federal

Government temporarily pending dispositions to meet claims of American citizens.

Dr. RE. I recall that.

Mr. DINGELL. Mr. English said this was correct.

Is this also your understanding that this is true?

Dr. RE. Yes, indeed.

Mr. DINGELL. Then I went on to say that, as a matter of fact, international law does not cover this at all. I am reading from page 710. International law does not cover this at all because this has to do with disposition of claims which the United States may wish to allow against funds which it has already seized.

Dr. RE. Let me say this, Mr. Dingell: Mr. English did say that these were not claims against the United States. They are claims that arise out of wrongful acts of foreign governments. In other words, what Mr. English is clearly saying here is that although we may not have a situation which is wholly governed by international law, clearly international law principles would apply by strong analogy. These are wrongful acts of a foreign country, and therefore, international law principles would govern.

Mr. DINGELL. Doctor, let us try to narrow this briefly and quickly because I notice my chairman is getting a little bit restless with my questioning.

Just briefly, we seized these assets and they have been vested in the United States. Is that correct?

Dr. RE. There is no question about that.

Mr. DINGELL. Accordingly, disposition of this is a matter of internal concern. These claims which these people assert can technically be asserted against Germany but, as a matter of fact, they are asserted against the United States and then, of course, the War Claims Settlement Commission.

Dr. RE. There is absolutely no doubt in my mind that this is a matter over which Congress has full power.

But I thought the question was properly addressed to the question of an exercise of that power rather than what the power is. It is, of course, a matter of legislative power.

Mr. DINGELL. To go a step further, there have been instances where, for example, and I refer to this on page 712 of last year's hearings. Great Britain had allowed claims of Yugoslav citizens within its borders.

There are other instances, too, I am sure you will recall, as referred to in the statement of my colleague, Mr. Machrowicz, which regard allowances of claims in similar situations by persons who were nationalists as opposed to citizens.

This is not a new principle, this thing we are discussing in international law.

Even assuming it to be a principle of international law it is not a new or radical principle, am I correct? It has been in many instances in the past recognized that governments have permitted claims by persons within their borders who were other than citizens or nationalists. Am I correct?

Dr. RE. Congressman Dingell, I am not aware of many other instances exactly in point. I was very interested in reading of this one exception. Had I known of this I would have put it in the chapter

on claims in my International Law book. This is certainly not traditional international law.

Mr. DINGELL. I am at a disadvantage in that I am just a lawyer who happens to be Congressman who is dealing with an expert in international law.

Dr. RE. I repeat that in the final analysis this is a matter of congressional power. Whether you want to view the matter as an international problem, or as a local one, these claims only arise because of the international wrong of a foreign power. Hence we speak of the governing principles of international law.

To the extent that that international law is applied, it is also part of the law of the land. That does not mean that if Congress in its wisdom wishes to deviate from it, it may not do so, but when you ask me if that is the tradition, the answer is clearly "No."

Mr. DINGELL. Except in the past we have regarded this as a matter of domestic policy and we can do so in the future if we so desire.

Dr. RE. That is a matter of congressional responsibility.

Mr. DINGELL. Thank you very much.

Dr. RE. Thank you very much, Congressman Dingell.

Mr. MACK. Mr. Glenn.

Mr. GLENN. Dr. Re, I am sure you can appreciate it is difficult for the members of the committee to recall all that has gone before. I am sure that your statement, résumé, is going to be of great benefit to us, particularly in view of the fact we do not have enough time to read the entire record of the hearings.

There is one question I would like to ask. That is on page 10 of your statement. You state that the section of the bill H.R. 2485 of the 86th Congress states the international law principle in that it requires continuous U.S. nationality of claimants rather than of claims.

Can you elaborate on that?

Dr. RE. Yes, sir. The elaboration is found in the letter of transmittal under the sectional analysis. The claim need not be owned continuously by the same American citizen, provided the property on which the claim is based is owned as of the time of loss and that the claim itself has national identity down to the time of filing.

I would be pleased, if you wish, to read and discuss the specific explanation in the sectional analysis. The statement found there specifically answers your question, Congressman Glenn.

This section, which is section 204, expressly requires that a property loss claim under section 202 can only be allowed if the property with respect to which the damage, loss, destruction, or removal was sustained, was American-owned at the time and that the claim arising therefrom never passed out of American hands from that time up to the date the claim was filed.

The only exception is the case of a married woman claimant who may have lost her U.S. citizenship between these two dates under early immigration laws solely by reason of marriage to an alien, but who reacquired such citizenship prior to the date of enactment of proposed title II.

As was previously stated, for example, recently born heirs would have been excluded.

Mr. GLENN. That is all. Thank you.

Mr. HEMPHILL. I wish to welcome you today in your appearance before this committee. We have had many happy years of association with Mr. Dilwig. I am sure that you and your fellow Commissioner Jaffe will enjoy the popularity that he has enjoyed.

I would like to direct your attention to page 3 of your statement and to H.R. 7479.

At the top of page 3, the second sentence in your prepared text, you say:

> For the most part these payments have been made for deaths, injuries, disabilities, and the personal sufferings of individuals occurring largely in the Philippines.

Under the provision of 7479 which is a bill introduced by Chairman Harris, the first three categories of claims related to property damage either directly or indirectly.

Category D, as I understand the legislation, relates to death.

Now, is there anything in the area of war claims which have not been honored which includes deaths, injuries, disabilities, and personal suffering of individuals as a result of enemy action that we have not taken care of here?

Dr. RE. I think that the death claims here relate to a limited category. I don't remember the exact names of the specific ships, but I think the *Athenia* is one of the them. The *Robbin Moore* is the other. This is a limited category.

Mr. HEMPHILL. The reason for my question was that I think it would be wrong for this committee, if there are areas of death and disability which are justifiable, to vote out legislation which would give preference to property damage as long as those particular questions of injury or death claims are either outstanding or pending in any way.

Dr. RE. Death claims have been covered by other legislation, but the broad answer I would like to give to your observation, Congressman Hemphill, is that precisely what are to be allowable claims and what is to be the order of priority, are most difficult questions, as is evident from the report of the War Claims Commission.

These are merely attempts to alleviate and to attempt a solution to the problem.

Mr. HEMPHILL. There are no outstanding death or personal claims that should have preference over the property damage you seek?

Dr. RE. We do not believe that there are. We do not believe that there are any worthy categories that have not already been taken care of by other legislation. The philosophy behind the present bill is that these are the remaining war claims which ought to be dealt with immediately.

Mr. HEMPHILL. I have been aware of some effort in the past here in the Congress to divert the war assets, remaining war assets, to other sorts of claims, but they were not claims which related directly to the enemy action in the sense that these you seek to treat here are.

Now, the next question I would ask you, on page 7 of the Harris bill, which is 7479, section 204 as I understand it, limits the claims of those people to Americans at the time of loss and who continuously remained American citizens up until the time the claim was filed.

Dr. RE. It limits it to those claims where the property was American owned at the time of the loss and continuously American owned until the time of the filing.

Mr. HEMPHILL. That is the basic policy of the Commission?

Dr. RE. That is the policy of the Commission, which represents the administration view and is in perfect conformity with the traditional principles of international law.

Mr. HEMPHILL. I believe you also followed the previous Commission in the legislation we considered a year or two ago?

Dr. RE. To my knowledge, this has been continuously adopted in prior legislation, and follows all prior recommendations. Any changes would be a departure from what has been American law and has been in harmony with the international principle.

Mr. HEMPHILL. I certainly thank you. I want to say that your testimony here today and your presentation gives me great confidence in your Commission. I hope we can work together.

Dr. RE. Thank you very, very much, Congressman Hemphill.

Mr. MACK. Mr. Keith.

Mr. KEITH. Dr. Re, I would like to join my colleagues in complimenting you on your presentation. I was a little disappointed when you announced early in your testimony that you were going to give us a little more of your background.

Then I listened in vain for personal qualifications for the assignment which did not follow, but, nevertheless, you explained the substance so well that it appears that you have the qualifications for the job you hold.

As a former life insurance man, I am considered friendly to the insurance industry generally, and I have received some correspondence related to an amendment offered by the author called the Fair Play Amendment to the War Claims Act of 1948. Are you aware of the subject matter of that amendment?

Dr. RE. I have read a document that was circulated. All I would be willing to say at this time, Congressman Keith, is that if a bill or an amendment is submitted that would take care of this group of claimants, the Commission would be pleased to submit a report.

I am aware, however, of the document to which you refer. I have read it, together with many others that arrive at the Commission offices daily—some friendly, some not so friendly.

Mr. KEITH. Would you care to comment on the merits?

Dr. RE. I would not, for a very simple reason. I have not discussed this matter with my colleagues and I therefore cannot even give the view of the Commission, quite apart from the view of the administration, on this issue.

Mr. KEITH. Would you, unless for some reason you ask to be excused from this, mind giving the committee a memorandum on this subject?

Dr. RE. I assume you wish some comments on the statement entitled "The Fair Play Amendment to the War Claims Act of 1948."

Mr. KEITH. Yes.

Dr. RE. We shall be happy to do that.

Mr. KEITH. Thank you very much.

Mr. MACK. Without objection, the information requested may be received for the record at the proper time.

Mr. Curtin.

Mr. CURTIN. Doctor, I want to compliment you on the very fine résumé of this problem which you have given us this morning.

As you, of course, appreciate, it is a very complex and involved problem so that in the year since we heard it, we could have forgotten some of the factors involved.

I thank you for reviewing the problem for us today.

Dr. RE. Thank you very much, Congressman Curtin.

Mr. MACK. Mr. Dingell?

Mr. DINGELL. Very briefly, once more, Mr. Chairman—Doctor, you mentioned that the determination of who shall receive disbursements of the settlement claims under this law is a matter of congressional policy, I believe. If that is a matter of congressional policy, then does it not follow that the disbursement of these claims and proceeds of the fund in settlement of the claims is a domestic matter?

Dr. RE. That does not necessarily follow. Congress deals with many matters that have international implications. All I can do is repeat what I said before: in the final analysis, Congress may do what it wishes in these matters.

Mr. DINGELL. There are instances though, where other nations have departed from the so-called firm position on this? There are previous instances in the history of the United States where this country has disregarded this principle, too; am I correct on this?

Dr. RE. Well sir, frankly, I am not an expert on the isolated exceptions to the traditional international law view. The one I read was stated by Mr. English in the hearings.

Mr. DINGELL. Of course, Mr. English did not look too much like an authority when the committee was done with him, did he?

Dr. RE. That might have been a matter of appearance. I am quite sure he is an authority.

Mr. DINGELL. Mr. Chairman, I want to also commend you for a very fine statement. I want to join my colleague, Mr. Hemphill, in paying this tribute to you, also to our very close and dear personal friend, Mr. Dilweg, who is an outstanding former member of this body.

I might add that we will see Mr. Dilweg in other parts of this building at a later time today.

Dr. RE. Thank you very much, Congressman Mack and members of the subcommittee.

Mr. MACK. I would like the record to show that the chairman of our full committee, the Honorable Oren Harris, is present and attending our session this morning.

Mr. Chairman, we are very happy to have you join us.

Mr. HARRIS. Thank you, Mr. Chairman. This is four I have been to this morning.

I am sorry I missed it, but I will look over the record with great interest.

Mr. MACK. Dr. Re, I would like to thank you for your testimony this morning. We have found it to be very helpful and we appreciate the contribution you are making here this morning.

Dr. RE. Thank you very much, Congressman Mack.

(The following additional material was submitted for the record by the Foreign Claims Settlement Commission:)

HON. EDWARD D. RE, CHAIRMAN, FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Dr. Re, a New Utrecht High School graduate, received his bachelor of science degree cum laude from St. John's University School of Commerce in 1941. He received his bachelor of laws degree cum laude from St. John's University School of Law in 1943, and in that year was admitted to the New York Bar. In 1950 he received the degree of doctor of juridical science from New York University. In 1960 he was awarded the honorary degree of doctor of pedagogy of the University of Aquila, Italy. He was appointed to the faculty of St. John's School of Law in 1947, and was made a full professor in 1951.

In 1956 Dr. Re was appointed a special hearing officer for the Department of Justice by the Attorney General of the United States. In that year he was the recipient of the Distinguished Service Award of the Brooklyn Junior Chamber of Commerce for his outstanding contribution to the community, State, and Nation. He was appointed to the Board of Higher Education of the city of New York by Mayor Robert F. Wagner on March 25, 1958. In 1960 Dr. Re was tendered the Order of Merit by the Republic of Italy.

Dr. Re is a member of National, State, and local bar associations, and is vice chairman of the Section of International and Comparative Law of the Americn Bar Association in charge of the comparative law division. During World War II, Dr. Re served in the U.S. Air Force from 1943 to 1947. He is presently an active Reserve officer, major, Air Force Judge Advocate General's Department.

In addition to many articles in the field of international and private law, Dr. Re is the author of several authoritative texts used in the leading law schools of the country. Notable among these are: "Confiscations in Anglo-American Law," "Cases and Materials on International Law," "Selected Essays on Equity," "Brief Writing and Oral Argument," and "Cases and Materials on Equity" (with the late Prof. Zechariah Chafee, Jr., of the Harvard Law School).

On February 15, 1961, President John F. Kennedy announced the appointment of Dr. Re as Chairman of the Foreign Claims Settlement Commission of the United States. Dr. Re appeared before the Judiciary Committee on March 28, and was unanimously confirmed by the Senate. The oath of office was administered on March 29 by Justice Felix Frankfurter.

Dr. Re has addressed bar associations, conferences, and universities in France, England, and Italy. He resides at 223 Bay Ridge Parkway, Brooklyn, with his wife and their nine children.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES,
Washington, D.C., August 25, 1961.

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance,
Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. MACK: Reference is made to the interrogation by Congressman Keith appearing at pages 64–65 of the transcript of the hearings before the Subcommittee on Commerce and Finance on August 2, 1961, wherein the Commission was requested to furnish a memorandum of the so-called fair play amendment concerning the claims of certain marine insurance underwriters.

This is to advise you that the Commission and the executive branch have consistently applied the international law principle requiring U.S. national identity of claims from the date of loss to date of filing. This principle has been expressly incorporated by the Congress in at least one recent statute, Public Law 85–604, and has been inferentially stated in all statutes administered by the Commission, (*a*) in requiring the application of the principles of international law; and (*b*) in requiring more than 50 percent U.S. stock ownership in any corporation in order for it to qualify as an eligible claimant.

While there may be moral and meritorious reasons for claimants outside the pale of these limitations to pursue recoupment for losses sustained, the current legislative proposals concerning claims are not considered to be the appropriate vehicle for this purpose.

Specifically, approval of the proposed fair play amendment would unduly broaden the class of claimants intended for coverage in light of limited available funds; it would supply a wedge that would tend to justify other extensive broadening; the same test of nationality should be applied to all claimants; and, finally, to rule otherwise would tend to create an anomaly.

In view of the foregoing, the Commission is opposed to enactment of the proposed fair play amendment.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

EDWARD D. RE, *Chairman.*

Mr. MACK. Our colleague from Illinois, Mr. Roman C. Pucinski, is present. We shall be happy to have your statement, Mr. Pucinski, if you care to testify.

Mr. PUCINSKI. Thank you very much, Mr. Chairman.

STATEMENT OF HON. ROMAN C. PUCINSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. PUCINSKI. Mr. Chairman, gentlemen of the committee, I shall try to be extremely brief in my remarks. I know that the House is just about ready to go into session.

However, I am here today to testify in support of H.R. 1190, and the companion measures that have been submitted by the various Members of Congress, including my own, H.R. 5545, which would permit the disbursements of frozen German assets to people who have suffered considerable damage and losses as prisoners of war, as ex-inmates of concentration camps, and prisons, as forced laborers, as internees.

I am very happy to be able to follow the distinguished Chairman of the Foreign Claims Commission, Dr. Re. Perhaps before I go into the formal aspect of my statement, I might comment on two points he brought up.

I think the gentleman from Michigan, Mr. Dingell, had asked a very pertinent question. In listening to the testimony of Dr. Re, one would get the impression that we are establishing some new principle here.

I believe that Mr. Dingell raised a very interesting point. This is not necessarily a new principle of compensating foreign nationalists. This was done, for instance, at the conclusion of the Russian revolution when a whole group of Russians who had profiteered in the Russian revolution, had fled to England and the British Government permitted the Government of Russia to actually hold court on British soil and for Russian prosecutors to prosecute these profiteers and actually recover the vast amount of the assets that had been stolen from Russia during the revolution.

There are certainly many other examples we could cite.

I think the other point that was brought up was brought up by Mr. Hemphill. I do not think anyone would object to first satisfying American claims against these assets.

It is my firm belief and opinion, however, that even after the claims of these Americans are satisfied, there will be substantial funds left which would otherwise undoubtedly be returned to the German Government if the amendment proposed in H.R. 1190 is to be rejected by the committee.

I think that perhaps the estimates of the funds available are somewhat conservative and there is some indication in evidence that there is considerably more money available.

The claims that would be covered by H.R. 1190 and the companion measures, including my own, would compensate some 50,000 people who had played a very important role in World War II and it is estimated would amount to some $90 million.

I am somewhat disturbed and perhaps even disappointed that there should be so much opposition to this proposal.

The other day we appropriated an additional $3½ billion in defense expenditures because we are now on the precipice of World War III. We pray to God we will not be in World War III, but we may well be in World War III and we may be in World War III only because we are going to defend a principle; namely, Berlin, our position in Berlin.

There was no question as to additional expenditures to defend Berlin.

The American people have willingly faced up to their responsibilities in a defense of freedom, just as these people whom we are talking about today faced up to their responsibility in the defense of freedom in World War II.

They are American citizens today or else they are permanent legal alien residents who will become American citizens.

Certainly if the war had gone as everybody hoped it would have gone, certainly if the Soviet Union had kept its wartime commitments, we would not have this problem.

These people probably would not be in the United States. They would have made their claims through the proper agencies after the war in their respective countries.

But fate decreed that these people could not return to their own countries, not through any fault of their own.

The fact remains that they could not have made their claims under the various acts and provisions established after the war.

So they have to look to Congress today. They were just as interested in defending a principle in World War II as we are in defending the principle of Berlin today.

It would appear to me that we owe a moral obligation to these people. We talk about the rights of American citizens. I think we should not overlook the fact that perhaps there are members on this committee, certainly there are Members in Congress, who would not be here today and would not have survived the war and that thousands upon thousands upon thousands of American soldiers who might not have survived if not for the gallant sacrifices of these men and women we are talking about today.

The people indeed were one of the secret weapons we had in World War II. They diverted enough Nazi troops all over Europe to give us the time we needed to stage a successful invasion.

The history of these people's war record is replete with glory, in Norway, in Tobruk, in the Italian campaign, Monte Cassino stands out as a great monument to courage to all of humanity today.

The gallantry that was shown there, in the Normandy invasion itself. The help that we got from these people who fought in the underground and who subsequently were captured and interned in forced labor camps.

History will never be able to adequately bedeck with glory their sacrifice and their efforts.

Yet we can sit here in Congress and debate whether the amount is too much or too little.

I would hope that this matter could have been resolved through negotiations. I would hope that the Congress would not have to act on this matter. I would have hoped that perhaps the West German Government itself might have recognized the fact that these people, even though they are here in this country today, had suffered great and irreparable damages during the war.

Unfortunately for reasons not known to me, this was not done. So we have to turn to Congress.

I was very happy to hear Dr. Re admit that this is fundamentally a policy matter. I am certain there are many legal experts, experts in international law who could argue back and forth, ad infinitum, as to the legal aspects of this situation.

In my very humble opinion, when all the arguments are in, this resolves itself in one question, a question of policy that Congress will have to decide and we, the Members of Congress, will have to decide whether we feel that because of the sacrifice and contribution that these soldiers and these civilians have made in World War II, that they ought to share in some sort of compensation that they could not get otherwise.

Now, if these people had some other place to turn, we could then certainly look entirely differently at this legislation.

But they have no other place to turn. They could not go back to their respective countries and file their claims for loss they had suffered. They came to this country. They are here now.

It seems to me that we have one real important consideration before us. God forbid that we again be forced to plow through the fields of Europe in a third world war.

Our American soldiers are there now. These American soldiers are going to look for the same kind of help that their comrades got in World War II from these people, this type of people. I can see the devastating, depressing, demoralizing effect that rejection of this principle might have on those people that we are counting on in Europe today to help us should we again be engaged in a conflict.

I was very inspired to hear Secretary of Defense McNamara testify before a committee of the other body yesterday that Khrushchev cannot count on the people of the captive nations and East Germany. Should there be another conflict he is going to have as much internal trouble in his own backyard as he will have ahead of him.

I think that the Secretary is reading the spirit of these people correctly because it was demonstrated in World War II. These are the people who had held up division after division after division of Nazi forces in Poland and all the other captive nations.

These are the people who had diverted these Nazi divisions and prevented Hitler from arranging an adequate and sufficient defense, on the coast of Normandy, to repel the Allied invasion.

Now we sit here today and we look upon these people and we say, "Well, they were not Americans—they were not this, they were not that," and we can raise all sorts of technical points to object to this legislation, but after you are all through and you reduce it to its lowest

denominator, it is a question of whether or not we want to see that justice is done to these heroic people.

We have that power in Congress.

We could sit here all afternoon and relate the scope of their contribution to Allied victory in World War II.

As a matter of fact, last year in testifying in support of this legislation, I told the committee about the incident of one forced laborer named Kotzan, who was the first one to report to the Polish underground, where and how and to what effect the Nazis were developing the V–2 rockets. It was only through the information we got from this one member of the Polish underground that the western allies were alerted to the V–2 operation.

We learned from Kotzan where these operations were and where these V–2 rockets were being built and we were able to send in air raids and destroy these installations.

This is just one little capsule, one little example among many, many, many that we could talk about here all afternoon.

Therefore, gentlemen, it would seem to me that there is merit and there is a moral basis for including in this legislation the amendments proposed by the gentleman from Michigan, Mr. Machrowicz, and the rest of his colleagues, in H.R. 1190.

I honestly feel that if we are seriously concerned about giving our fighting men all the possible help we can give them, should they ever go into another conflict, that this legislation will go a long way in creating that sort of atmosphere.

I think that when word gets back, and it will get back, it always gets back, to the people of Europe that the United States has not forgotten about the people who made this great sacrifice in World War II at their own risk as civilians—they could have collaborated with the Nazis, they could have done a lot of things to make their existence easier, we did have examples of that in World War II, but these people did not. These people believed in freedom. These people believed in victory for the West and they used every single resource of their imagination to help the West.

There are only 50,000 of these people involving a matter of $90 million. We talk here about compensating for losses of ships, for losses of buildings, various other losses that have been described before this committee.

What about the losses suffered by human miseries of these people? Here is our great country involved in multibillion dollar expenses to defend freedom. Yet we would say to these people that we do not have the heart to give them meager compensation.

Oddly enough, these are perhaps the people who need it most. These are the people who came to this country as immigrants, as war refuges, unfamiliar with the language, advanced in age, unable to establish themselves in any appreciable business or enterprise that would give them the normal comforts that we Americans look forward to.

These are the people who, are today in the lowest economic strata. Every single penny they would get under the bill is going to be greatly appreciated, and, even more so, greatly needed.

I think as a humane gesture and as one or right—regardless of this question whether or not we are establishing new policy and principle—

it is proper for this Congress to establish the principle that whoever starts a war or whoever is foolish enough to start another world war, is going to have to pay the full damages.

I think that if we had the time here and it was permissible, I certainly would like to add to the committee's file some of the great acts of heroism on which we are basing the moral aspect of our argument.

I will leave to the international lawyers the arguments in support, the legal arguments in support of this legislation.

Mr. Dingell has touched on one of them, but I do hope that this committee will take into consideration the great contribution these men made.

The meager compensation that we are suggesting to these people today would not even begin to compensate them for the great effort they made.

Above all, the fact that despite this great sacrifice they were not able to return to their native land. I am sure they are all very happy as Americans. I am sure they love this country as much as they did their native land, but the fact that they were denied the opportunity to return to their own native country as free people certainly makes it a great and strong case in support of this legislation.

Therefore, Mr. Chairman, I do hope that the committee will consider H.R. 1190.

The suggestions made by Congressman Machrowicz may very well lead to a compromise although I must say here I am sorry and disappointed that the Foreign Claims Commission has raised technical objections to the legislation as originally submitted.

I think the legislation was carefully thought out, it is sound, it is meritorious, and certainly worthy of the support of every Member of Congress.

Mr. MACK. Thank you very much for a very fine statement.

Are there any questions?

Mr. PUCINSKI. Thank you, Mr. Chairman.

Mr. MACK. Is Mr. Richard Davis present?

Mr. Davis, would it be convenient for you to come back this afternoon.

Mr. DAVIS. Yes, Mr. Chairman.

Mr. MACK. If that is agreeable we will expect you here at 2.

If you have a conflict in your schedule, we could take you at 10 o'clock tomorrow morning.

Mr. DAVIS. Two o'clock will be fine.

Mr. MACK. You will be the first witness this afternoon and the committee will now stand adjourned until 2 o'clock.

(Thereupon, at 12:20 p.m., the subcommittee was recessed, to reconvene at 2 p.m., same day.)

AFTERNOON SESSION

Mr. MACK. The committee will come to order.

Our first witness this afternoon is Mr. Richard H. Davis, Deputy Assistant Secretary of State for European Affairs.

Mr. Davis, we are glad to have your statement.

STATEMENT OF HON. RICHARD H. DAVIS, DEPUTY ASSISTANT SECRETARY OF STATE FOR EUROPEAN AFFAIRS, ACCOMPANIED BY RICHARD D. KEARNEY, ASSISTANT LEGAL ADVISER FOR EUROPEAN AFFAIRS, AND GEORGE W. SPANGLER, ASSISTANT LEGAL ADVISER FOR INTERNATIONAL CLAIMS

Mr. DAVIS. Mr. Chairman and members of the committee, I appreciate the opportunity to appear before your subcommittee to discuss legislation for the satisfaction of certain long outstanding war claims of American nationals.

As you are aware, various arrangements—legislation, treaties of peace, international agreements—have provided relief to most categories of American war claimants since 1945. There remain, however, two categories of war claimants for whom no compensation arrangements have yet been made. Of these, the major category—in terms both of the number of claimants involved and the total damage sustained—is that of American nationals with war damage claims against Germany. The second, lesser category includes Americans whose claims against Japan are covered neither in the treaty of peace nor in existing war claims legislation.

To provide compensation for these claimants, and thus to correct an inequity of long standing, the Department urges this subcommittee to recommend prompt and favorable action on H.R. 7479. This bill was introduced on June 6, 1961 by the chairman of the Interstate and Foreign Commerce Committee, the Honorable Oren Harris. H.R. 7479 is an administration measure which represents the consensus of the Departments of State, Treasury, and Justice, the Bureau of the Budget, and the Foreign Claims Settlement Commission, the latter having transmitted the draft legislation to he Congress.

With me today to assist in answering technical and legal questions are Mr. Richard D. Kearney, on my right, the Assistant Legal Adviser for European Affairs, and Mr. George W. Spangler, Assistant Legal Adviser for International Claims.

Thank you, Mr. Chairman.

Mr. MACK. Thank you, Mr. Davis.

I have a report from the Department of State on H.R. 7283 and, as you know, 7283 is identical with the bill which passed the House in the 86th Congress; it failed to pass the Senate. In the third paragraph of your report it states:

> The Department supports the enactment of H.R. 7479—

that is, the administration bill—

> which differs in several important respect to H.R. 7283. Accordingly, the Department is unable to recommend enactment of 7283.

I would conclude from that that you are objecting to the differences in the bill, and it quotes you as saying that the bills differ in several important aspects.

Would you care to say, if that is the case, what the objectionable portions would be in the other bill?

Mr. DAVIS. Well, there are two——

Mr. MACK. The reason I raise this question is that we were successful in having the bill passed by the Congress during the last Congress.

It was passed by a very substantial majority and, therefore, I did not feel there was any major objection to the proposal.

Mr. DAVIS. I think that is a very fair question, Mr. Chairman, and I would like to attempt to answer that.

I think there are two important respects in which the bill H.R. 7479, differs from H.R. 7283.

One, H.R. 7479 does not include the Commonwealth of Philippine claims which are being taken care of in another bill supported by the administration, and supported by the Department of State.

Mr. MACK. Did I understand you to say that it has been taken care of?

Mr. DAVIS. It is before Congress for consideration.

Mr. MACK. You would prefer to take care of it in another bill rather than in this bill?

Mr. DAVIS. This is the position of our Department, sir.

Mr. MACK. You do support that principle?

Mr. DAVIS. Sir?

Mr. MACK. You support the principle——

Mr. DAVIS. We support the principle.

Mr. MACK (continuing). That you prefer to deal with it in another bill?

Mr. DAVIS. That is correct.

The second observation I would like to make is that H.R. 7283 does not include a provision included in H.R. 7479 which is under section 202(e) which relates to and which includes claims for reparations removals in Germany of industrial or capital equipment directly or indirectly owned by U.S. nationals.

Those are the two aspects which we have particularly in mind, although there are other less important differences.

Mr. MACK. It would seem to me that you have no major objections to the proposal. It is just a question of procedure primarily.

Mr. DAVIS. Primarily with, I would say——

Mr. MACK. I would say that if you had objections to it, they are minor.

On the other hand, I will permit you to testify and express it in your own words.

Do you have any questions, Mr. Glenn?

I might say for the benefit of the witness that my proposal was drawn up quite early this year, although it was not introduced at that time, and that it did follow the lines of the bill which was reported and passed by the last Congress.

Mr. DAVIS. Yes.

Mr. MACK. I am happy to have testimony which would tend to improve the legislation which was passed. I am hoping that we meet with the same success this year, that is, as far as the House is concerned.

Mr. DAVIS. We do, too.

Mr. MACK. Mr. Glenn.

Mr. GLENN. Mr. Davis, I see you have an abundance of legal experts with you. I wonder if either one could tell us just what the present position is of the litigation over the assets of General Aniline & Film?

Mr. DAVIS. May I ask Mr. Kearney?

Mr. KEARNEY. Yes, sir.

We have general information from the Department of Justice on that, sir, and the examination of the documents in the case before the District Court of the United States is still continuing and, apparently, will continue for quite some time as yet.

Mr. GLENN. This is still in the district court?

Mr. KEARNEY. Yes. You will recall that it went up to the Supreme Court on the point of the documents which were requested from the Swiss, and which the Swiss Government refused to be allowed to be turned over to our district court, and Supreme Court then remanded the cast to the district court for further proceedings, and it is still pending in the district court.

Mr. GLENN. I do not imagine then that it has advanced very far since our hearings back in 1959?

Mr. KEARNEY. I do not think so, sir. It will evidently be some considerable time more before it will actually go to trial. That is our information.

Mr. GLENN. Thank you very much. That is all, Mr. Chairman.

Mr. MACK. Mr. Dingell.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Davis, I regret that I was not here at the time you gave your statement, but I have taken time to read it carefully.

What is your position on H.R. 1190 introduced by our colleague, Mr. Machrowicz? That is the bill to compensate escapees, concentration camp inmates, forced laborers, and prisoners of war?

Mr. DAVIS. We have not yet commented on that bill since we have not been requested to comment on it.

Mr. DINGELL. Would you want to comment on it briefly now or would you prefer to submit written comments at a later point?

Mr. DAVIS. We would be glad to submit written comments; perhaps, I should say now that we are opposed to it.

Mr. DINGELL. I beg your pardon?

Mr. DAVIS. I should say now we are opposed to it.

Mr. DINGELL. You are opposed to it. I assume your reasoning is the same as the reasoning of Mr. English last year before this committee when he stated that this was a matter of international law which was well settled that payments were not made to people who were not of citizenship at the time that the claim arose; is that the burden of your position?

Mr. DAVIS. This is our position.

Mr. DINGELL. Well, now, let me ask you a question: If we found out this was not a settled matter of international law, would you change your position then in the State Department?

Mr. DAVIS. I think our general position has been outlined before in testimony before the committee. We think this question does have its international aspects.

Mr. DINGELL. Are you talking now about the international aspects before return or are you talking about the international aspects of a settled uniform determination by an international agency and by the state departments and foreign affairs departments of the various nations concerned?

Mr. DAVIS. No. We recognize that the Congress has the power to dispose of these assets as it sees fit. Our only position is that this ques-

tion does have its international aspects, and has from the very beginning, because of its involvement——

Mr. DINGELL. But you clearly recognize the power of Congress to dispose of these assets by statute?

Mr. DAVIS. Yes, indeed.

Mr. DINGELL. And you recognize also that we have seized these assets, am I correct?

Mr. DAVIS. Yes.

Mr. DINGELL. I think you recognize that in other instances, in other countries, payments have been made to persons who have suffered injury and who were not holding citizenship in the country which seized the property, is that correct?

Mr. DAVIS. This is Mr. Spangler, our Assistant Legal Adviser for International Affairs.

Mr. SPANGLER. I am Mr. Spangler.

Our information on this point is not entirely the same as some statements I have heard today in this regard.

We are aware of only one agreement in which any compensation was paid for war damage or nationalization of property to persons who were not citizens at the time of loss.

Mr DINGELL Well, you have heard one instance where this principle has been disregarded.

Mr. SPANGLER. That is right. But it is not the one that was mentioned this morning.

Mr. DINGELL. I beg your pardon?

Mr. SPANGLER. It is not the one that was mentioned this morning. That is the British.

Mr. DINGELL. Where is it?

Mr. SPANGLER. The other is a Belgium-Czechoslovakia agreement which provided that citizenship was necessary at the date of the agreement.

Now, this question about the British agreement has come up many times in the past. We have examined the British agreement to which reference has been made, and we also communicated with the Embassy in London, and the English Government informed us that they did not pay persons who were not citizens of Great Britain at the time of loss.

Mr. DINGELL. The information I received was that no payments were made under this, but do you deny that the agreement covered persons of this sort?

Mr. SPANGLER. I do.

Mr. DINGELL. You do?

Mr. SPANGLER. I do.

Mr. DINGELL. At any rate, it is fairly clear that the United States can seize this property and that we have executive agreements and treaties with nations from whom it was seized that they would compensate their own citizens for seizure, and that the United States would be permitted, under our agreement with the country whose nationals lost this property, to utilize this property for compensation of our citizens; am I correct?

Mr. SPANGLER. I am sorry. I do not understand your question.

Mr. DINGELL. Well, let me rephrase the question, and I will try to make it more simple.

Mr. MACK. I would like to inquire about a recess at this point. We have a call to the House floor, and we will reconvene in about 20 minutes. The gentleman from Michigan will be recognized when we return.

The committee will stand in recess.

(At this point a short recess was taken.)

Mr. MACK. The committee will come to order.

When the committee recessed this afternoon, the Chair recognized the gentleman from Michigan, Mr. Dingell.

Mr. Dingell, do you have further questions?

Mr. DINGELL. Yes, Mr. Chairman.

We were talking, at the time the committee recessed, about the problem of continuing that account of nationality of citizens being non-American, and the asserted position of the State Department that the nationality should be the same as at the time of the loss, of the taking, of the injury.

I have had a chance to do a bit of brief research on the agreement which the British made with Yugoslavia on this subject of compensation of British citizens, British nationals, and also of Yugoslav nationals then residing within the boundaries of the British Isles, and I am advised that in this situation, the agreement took in Yugoslav nationals then residing within the British Isles. You deny this?

Mr. SPANGLER. No, sir. Our research led to the opposite conclusion.

Mr. DINGELL. I am advised that the agreement was such, but that implementing legislation never provided for taking care of these people and, as a result, there was no compensation to persons other than the nationals and citizens of Britain.

Will you check this out for me? I assume you are not prepared to comment on it at this point.

Mr. SPANGLER. Let me make certain that I have that agreement listed and I will give you our answer immediately.

Mr. DINGELL. I would like to have that very clearly on the record so that, perhaps, you will find it more convenient to submit it for the record rather than discuss it at this point.

There is no question in your mind, is there, that this is a simple situation of the United States and the Congress of the United States acting within its proper and constitutional authority to dispose of assets which are vested in the United States for the benefit of American citizens who have been injured, do you?

Mr. SPANGLER. Yes, sir; I agree that it has the power to do this which goes short of the question as to whether it should.

Mr. DINGELL. This is just simply a question of the exercise, by the Congress, of its legitimate power in the field in which it has full constitutional and legal authority to act.

Mr. SPANGLER. It has the authority.

Mr. DINGELL. And, and as a result of this, this is simply a question of domestic policy of the United States.

Mr. SPANGLER. I would not like to go that far.

Mr. DINGELL. Well, when Congress acts it acts in pursuance of domestic policy of the United States; when the White House and the State Department act in the field of foreign affairs or foreign relations they act within the field of foreign relations.

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I assume that you would not state that there was any quesion which would deny the Congress the authority to act in this area because of any commitment or treaty or other obligation of the United States which would prevent the Congress from acting in this field, would you?

Mr. SPANGLER. I agree to that.

Mr. DINGELL. There is no treaty or commitment that we have made which would deny us the authority to act in this field?

Mr. SPANGLER. None to my knowledge; none to my knowledge.

Mr. DINGELL. Gentleman, I certainly appreciate your kindness.

Thank you Mr. Chairman.

Mr. MACK. Any further questions?

Mr. Davis, I would like to thank you for your appearance here today.

Mr. DAVIS. Thank you very much, Mr. Chairman and members of the committee.

(The following additional information was later submitted by the Department of State:)

DEPARTMENT OF STATE,
Washington, August 23, 1961.

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance,
Interstate and Commerce Committee, House of Representatives.

DEAR MR. CHAIRMAN: On my appearance, August 2, 1961, when H.R. 7479 was under consideration by the Subcommittee on Commerce and Finance, you inquired regarding certain differences between that bill and H.R. 7283. My testimony in response to your questions with respect to one of the differences, appearing on pages 83–84 of the typewritten print, was as follows:

"Mr. DAVIS. * * * H.R. 7479 does not include the Commonwealth of Philippine claims which are being taken care of in another bill supported by the administration, and supported by the Department of State.

"Mr. MACK. Did I understand you to say that it has been taken care of?

"Mr. DAVIS. It is before Congress for consideration.

"Mr. MACK. You would prefer to take care of it in another bill rather than in this bill?

"Mr. DAVIS. This is the position of our Department, sir.

"Mr. MACK. You do support that principle?

"Mr. DAVIS. Sir?

"Mr. MACK. You support the principle——

"Mr. DAVIS. We support the principle.

"Mr. MACK (continuing). That you prefer to deal with it in another bill?

"Mr. DAVIS. That is correct."

In testifying to the effect that claims of U.S. citizens for war damage in the Philippines were being taken care of in another bill supported by the administration, I failed to make clear the nature of that bill. I was alluding to H.R. 1129, which would authorize the payment of the balance of awards for war damage compensation made by the Philippine War Damage Commission under the terms of the Philippine Rehabilitation Act of April 30, 1946, and to authorize the appropriation of $73 million for that purpose. The Department on May 24, 1961, advised the House Foreign Affairs Subcommittee on the Far East and Pacific of its support of H.R. 1129 with certain amendments.

With respect to claims of American nationals for property losses in the Philippines as provided by H.R. 7283, the Department supports H.R. 7479, the administration's bill, which excludes such claims. The Department is opposed to compensating out of German vested assets American nationals who, although otherwise eligible, were denied recovery by the Philippine War Damage Commission because they were unwilling to reinvest amounts awarded in the Philippines, as required by the Philippine Rehabilitation Act.

I would appreciate having the above explanation included in the record of the subcommittee's hearings.

Sincerely yours,

RICHARD H. DAVIS,
Deputy Assistant Secretary for European Affairs.

DEPARTMENT OF STATE,
Washington, D.C., August 23, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to the request at a hearing on August 2, 1961, before the Subcommittee on Commerce and Finance on H.R. 7479 and other war claims bills for information regarding an agreement between the United Kingdom and Yugoslavia.

At the hearing, Mr. Dingell stated that he was advised that the agreement covered Yugoslav nationals residing within the British Isles but that the implementing legislation did not provide compensation to persons other than British nationals and asked for information regarding the matter for the record.

There is enclosed a copy of the agreement of December 23, 1948, between the Government of the United Kingdom and the Government of Yugoslavia regarding compensation for the nationalization, liquidation, or other taking by Yugoslavia of British property and of rights and interests in and with respect to such property. It will be noted that article IV of the agreement expressly provides that only British nationals who had that status on "the date of the relevant measure or measures" adopted by Yugoslavia were included.

The Department was informed by the British authorities in January 1959 that pursuant to the Foreign Compensation Order in Council, 1950, No. 1192, the Foreign Compensation Commission awarded compensation only to persons who possessed British nationality at the time their claims arose. Under articles 11 and 17 of this order in council it appears that qualified claimants were required to show that the property upon which the claim was based was British owned either on the date of entry into force of the Yugoslav law or decree affecting such property or on the date the property was placed under state administration or otherwise taken by the Yugoslav state. Articles 11 and 17 read as follows:

"11. To establish a claim under this Order, any person, making application to the Commission for that purpose, shall be required to prove to the satisfaction of the Commission that he is a person qualified to make such application, and—

"(a) (i) that the property (as defined in Article 14 of this Order) or interest in property (as defined in Article 15 of this Order) to which his application relates was British at the relevant date (as defined in Article 17 of this Order);

"(ii) that, by or under any Yugoslav measure as defined in Article 18 of this Order, he or his predecessor in title has been deprived of title to or enjoyment of such property or, if the claim relates to an interest in property owned or held by a corporation, that, by or under such Yugoslav measure, the corporation has been deprived of title to or enjoyment of that property; and

"(iii) that he or his predecessor in title has suffered loss as a result of such deprivation; or

"(b) that his claim relates to a debt within the meaning of Article 16 of this Order."

"17. For the purposes of this Order, the relevant date shall, at the option of the person making the application, be—

"(a) the date of entry into force of the Yugoslav law or decree by or under which the property or interest in property was affected, or

"(b) the date on which the property or interest in property to which the claim relates was placed under State administration or otherwise taken over by the Yugoslav State."

It is hoped that the foregoing information will be of assistance to the Subcommittee on Commerce and Finance.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary.*

Treaty Series No. 2 (1949)

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF YUGOSLAVIA REGARDING COMPENSATION FOR BRITISH PROPERTY, RIGHTS AND INTERESTS AFFECTED BY YUGOSLAV MEASURES OF NATIONALISATION, EXPROPRIATION, DISPOSSESSION AND LIQUIDATION

[With Exchange of Notes]

London, 23rd December, 1948

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Government of the Federative People's Republic of Yugoslavia (hereinafter referred to as "the Government of Yugoslavia"),

Desiring to make a final settlement between them of claims with respect to British property, rights and interests affected by various Yugoslav measures of nationalisation, expropriation, dispossession, liquidation or any restrictive measures of a similar kind, in and with respect to such property, rights and interests (hereinafter referred to as "various Yugoslav measures"),

Have agreed as follows:—

Article I

(*a*) The Government of Yugoslavia shall pay to the Government of the United Kingdom the sum of four and one-half million pounds sterling (£4,500,000) of which four hundred and fifty thousand pounds sterling (£450,000) shall be paid as soon as possible but not later than one year after the signature of the Anglo-Yugoslav Money and Property Agreement.[1] The terms and conditions of payment of the remaining four million and fifty thousand pounds sterling (£4,050,000) shall be agreed between the Contracting Governments during the negotiations for a long-term trade agreement which shall be entered into at an early date.

(*b*) The said sum shall be deemed to represent the aggregate value of all British property affected by various Yugoslav measures and shall be paid by the Government of Yugoslavia free from any deduction or obligation of any kind.

Article II

(*a*) The Government of the United Kingdom shall accept payment of the said sum of four and one-half million pounds (£4,500,000) in full satisfaction and discharge of all claims of British nationals arising, on or before the date of signature of the present Agreement, out of various Yugoslav measures affecting British property.

(*b*) In consideration of the payment by the Government of Yugoslavia of the said sum of four and one-half million pounds (£4,500,000) in accordance with the provisions of Article I of the present Agreement, the Government of the United Kingdom on their own behalf and on behalf of British nationals shall release the Government of Yugoslavia from all liability, including liability for payment to British nationals, in respect of the claims mentioned in paragraph (*a*) of this Article.

(*c*) The provisions of this Article shall apply to all such claims whether they are made or presented before or after the date of signature of the present Agreement.

Article III

(*a*) In consideration of the global settlement under the present Agreement, the Yugoslav Government waive all claims on their own behalf or on behalf of Yugoslav nationals (including juridical persons) arising out of debts due from the Government of the United Kingdom or from British nationals incurred in the course of the business in which British property was used.

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[1] "Treaty Series No. 3 (1949)" Cmd. 7601.

(*b*) The Government of the United Kingdom likewise waive all claims on their own behalf or on behalf of British nationals arising out of debts so incurred and due from the Government of Yugoslavia or from Yugoslav nationals (including juridical persons).

ARTICLE IV

(*a*) For the purposes of the present Agreement, "British property" shall mean all property, rights and interests affected by various Yugoslav measures which, on the date of the relevant measure or measures, were owned directly or indirectly, in whole or in part, by British nationals, to the extent to which they were so owned.

(*b*) For the purposes of the present Agreement, "British nationals" shall mean—

(i) Physical persons who are British subjects or British protected persons belonging to any of the territories mentioned in sub-paragraph (ii) of this paragraph, and their heirs and legal representatives; and

(ii) Companies, firms and associations incorporated or constituted under the laws in force in the territory of the United Kingdom of Great Britain and Northern Ireland, or Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, India, Pakistan, Ceylon, or in any terrritory for the foreign relations of which the Government of any of the aforesaid countries is, at the date of signature of the present Agreement, responsible.

ARTICLE V

The present Agreement shall come into force on the date of signature.

In witness whereof the undersigned, duly authorised for the purpose by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

Done in London, in duplicate, this 23rd day of December, 1948.

(L.S.) ERNEST BEVIN.
(L.S.) A. G. BOTTOMLEY.
(L.S.) O. M. CICMIL.
S. KOPCOK.

EXCHANGE OF NOTES

No. 1

Mr. Ernest Bevin to M. Stanislav Kopčok

Foreign Office,
23rd December, 1948.

Sir,

In amplification of the Agreement regarding compensation for British property, rights and interests affected by Yugoslav measures of nationalisation, expropriation, dispossession and liquidation, signed this day, I have the honour to inform you that during the course of the discussions which have preceded the conclusion of the Agreement the following understandings have been reached:—

(1) It is understood that the sum of £4,500,000 which will be paid as compensation for British property (as defined in Article IV of the Agreement) includes all claims concerning such property of British nationals (excluding the claim of Messrs. Guinness Mahon Executor and Trustee Company Limited) presented to the Government of the Federative People's Republic of Yugoslavia through diplomatic channels or the Yugoslav Trade Delegation during negotiations from February 1946 up to the date of this letter and all other such claims subsequently received.

(2) It is understood that the sum of £450,000 will be paid primarily so far as possible from assets released in accordance with the Anglo-Yugoslav Money and Property Agreement signed in London on 23d December, 1948.

2. I have the honour to inform you that the foregoing provisions are acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland. If they are likewise acceptable to the Government of the Federative People's Republic of Yugoslavia I have the honour to suggest that the present note and your reply to that effect shall be regarded as placing on formal record the understanding of the two Governments in the matters referred to.

I have, &c.

(Sd.) ERNEST BEVIN

No. 2

M. Stanislav Kopčok to Mr. Ernest Bevin

Trade Delegation in London
of the Federative People's Republic
of Yugoslavia,
23rd December, 1948.

Sir,

I have the honour to acknowledge the receipt of your note of 23rd December, of which the text follows:

[As in No. 1]

2. I have the honour to confirm that the provisions set out in your note are acceptable to the Government of the Federative People's Republic of Yugoslavia and that they agree that that note and the present reply shall be regarded as placing on formal record the understanding of the two Governments in the matters referred to.

I have, &c.

(Sd.) S. KOPČOK.

No. 3

Mr. Ernest Bevin to M. Stanislav Kopčok

Foreign Office,
23rd December, 1948.

Sir,

In amplification of the Agreement regarding compensation for British property, rights and interests affected by Yugoslav measures of nationalisation, expropriation, dispossession and liquidation, signed this day, I have the honour to inform you that during the course of the discussions which have preceded the conclusion of the Agreement the following understandings have been reached:

It is understood that the Agreement has been signed prior to the receipt of the concurrence of the Government of the Union of South Africa to the text of the Agreement and that on receipt of such concurrence the Agreement shall also apply to the Union of South Africa in the same manner as if the Government of the Union of South Africa had concurred on or before the date on which the Agreement came into force. It is further understood that in the event of the Government of the Union of South Africa not concurring to the text of the Agreement, the Governments of the United Kingdom and of Yugoslavia will consult with each other concerning the action to be taken.

2. I have the honour to inform you that the foregoing provisions are acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland. If they are likewise acceptable to the Government of the Federative People's Republic of Yugoslavia I have the honour to suggest that the present note and your reply to that effect shall be regarded as placing on formal record the understanding of the two Governments in the matters referred to.

I have, &c.

(Sd.) ERNEST BEVIN.

No 4

M. Stanislav Kopčok to Mr. Ernest Bevin

Trade Delegation in London
of the Federative People's Republic
of Yugosalvia,
23rd December, 1948.

Sir,

I have the honour to acknowledge the receipt of your note of 23rd December, of which the text follows:

[As in No. 3]

2. I have the honour to confirm that the provisions set out in your note are acceptable to the Government of the Federative People's Republic of Yugoslavia and that they agree that that note and the present reply shall be regarded as placing on formal record the understanding of the two Governments in the matters referred to.

I have, &c.

(Sd.) S. KOPČOK.

DEPARTMENT OF STATE,
Washington, D.C., September 15, 1961.

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance, Interstate and Foreign Commerce Committee, House of Representatives.

DEAR MR. CHAIRMAN: I refer again to your letter of August 3, 1961, requesting the views of the Department of State on certain proposed amendments to H.R. 7479 and H.R. 7283, bills to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses.

The proposed amendments set forth in your letter would authorize the Foreign Claims Settlement Commission of the United States to recertify to the Secretary of the Treasury, for payment out of the war claims fund, awards made by the Commission under section 303(1) of the International Claims Settlement Act of 1949, as amended, for war damage sustained in Hungary. Under the proposed amendments claimants who received awards for war damage in Hungary would participate in the distribution of payments from the war claims fund, which is derived from the proceeds of German vested assets, on the same basis as persons with valid claims under pending war claims bills, less amounts which have been previously received under the International Claims Settlement Act of 1949.

Under section 303(1) of the International Claims Settlement Act of 1949, as amended, awards for war damage in Hungary could not exceed two-thirds of the loss or damage sustained. This was in accord with the provisions of the peace treaty with Hungary whereby Hungary undertook to pay two-thirds of war damage. Under the act, payments upon awards after the first $1,000 installment payment upon all awards of $1,000 or more, were to be prorated above that amount from the remaining funds available in the Hungarian claims fund, derived from the proceeds of certain vested Hungarian assets. Such funds were used to pay nationalization and other kinds of claims against Hungary, as authorized by section 303 of the act, in addition to war damage claims. The Department understands that claimants will receive out of the limited funds available for payment of claims against Hungary approximately 2.5 percent

of the amounts awarded them by the Foreign Claims Settlement Commission for war damage in Hungary or approximately 1.6 percent of the loss or damage sustained as determined by the Commission.

H.R. 7479, the administration's bill, and H.R. 7283 would provide compensation for damages to or destruction of property located in certain European countries and in certain territory occupied or attacked by Japanese military forces. Italy, Bulgaria, Rumania, Hungary, and Japan were excluded because it was considered that provision for compensation has been provided under the applicable peace treaty with each of those countries. Other countries were excluded because it was considered that compensation had been provided by the laws of each of such countries.

U.S. nationals who sustained war damage in Hungary will receive substantially less than U.S. nationals who sustained war damage in other countries. While the Department does not have precise information regarding the amounts received by U.S. nationals in satisfaction of war damage claims, compensation thus far received has ranged from approximately 1.6 percent, as in the case of Hungary, to 100 percent, as in the case of Japan. With respect to claims against Bulgaria and Rumania for war damage under section 303(1) of the International Claims Settlement Act, available information indicates that in the case of Bulgaria, claimants will receive approximately 60 percent of the amounts awarded them on their claims for war damage or 40 percent of the actual loss, and in the case of Rumania, claimants will be paid approximately 40 percent of the amounts awarded them for war damage or 27 percent of the actual loss.

In view of the very small percentage paid U.S. nationals for war damage in Hungary, which could well be considered as being de minimis, and in view of the present uncertainty of obtaining a settlement with Hungary of outstanding claims of U.S. nationals against that country, the Department is disposed to consider favorably an amendment to the administration's bill, H.R. 7479, allowing U.S. nationals who received awards from the Foreign Claims Settlement Commission for war damage sustained in Hungary to participate in the distribution of payments from the war claims fund, provided such participation is limited to the percentage realized by claimants who received awards for war damage under the Rumanian claims program. If awardees under the Hungarian claims program were to participate in the war claims fund equally with claimants eligible under the pending war claims bills, the percentage of payment of awards for war damage rendered against Hungary could exceed the percentage of payment of awards rendered against Bulgaria and Rumania. This would undoubtedly result in demands to bring payments on account of awards against Bulgaria and Rumania up to the same level. The Department, accordingly, would have no objection to the proposed amendments set forth in your letter provided payments authorized thereunder on awards for war damage in Hungary would not exceed the percentage paid under the Rumanian claims program, which is 40 percent of the amounts awarded for war damage in Rumania or 27 percent of the loss or damage actually sustained.

A revised draft of the amendments set forth in your letter, which incorporates the above limitation on payments for war damage claims against Hungary and certain other minor changes, is enclosed.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report, but that it wishes to emphasize very strongly the administration's view that if the proposed amendment is adopted, it should not be regarded as a precedent for the equalization of awards under other claims programs.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

REVISED DRAFT OF AMENDMENTS

Section 208 is hereby amended by adding at the end thereof the following: "except any claimant whose award under section 303(1) of title III of the International Claims Settlement Act of 1949, as amended, is recertified pursuant to section 209(b) of title II of this Act."

Section 209 is hereby amended by designating it paragraph (a) and adding the following:

"(b) The Commission shall recertify to the Secretary of the Treasury, in terms of United States currency, for payment out of the War Claims Fund,

awards heretofore made against the Government of Hungary under section 303(1) of title III of the International Claims Settlement Act of 1949, as amended. Nothing contained in this paragraph (b) shall be construed as authorizing the filing of new claims against Hungary."

Section 213(a)(3) is hereby amended by inserting, following the words 'section 202' the following: "or recertified pursuant to section 209(b)"; and by adding at the end of section 213(a)(3) the following sentence:

"Payments heretofore made under section 310 of title III of the International Claims Settlement Act of 1949, as amended, on awards made against the Government of Hungary under section 303(1) of title III of the International Claims Settlement Act of 1949, as amended, and recertified under section 209(b) of title II of this Act, shall be considered as payments under this paragraph and no payment shall be made on any recertified award until the percentage of distribution on awards made under section 202 exceeds the corresponding percentage of distribution on such recertified award: *Provided*, That no payment made on awards recertified under section 209(b) shall exceed 40% of the amount of the award recertified."

Mr. MACK. Do we have a representative of the Department of Justice present?

(There was no response.)

Mr. MACK. I would like to state again for the record that this committee would rely heavily on the hearings which were conducted in the previous Congress, and that we are holding hearings at this time to receive new and additional information which was not submitted previously.

I would also like to say that we would be happy to receive the statements from anyone for inclusion in the record, and it would not be necessary for them to read their entire statement, but have it included as part of the record.

Our next witness is the Reverend John Scherzer, treasurer of the Committee for Return of Confiscated German and Japanese Property.

Mr. Scherzer, we are happy to have you as a witness this afternoon.

STATEMENT OF JOHN A. SCHERZER, TREASURER, COMMITTEE FOR RETURN OF CONFISCATED GERMAN AND JAPANESE PROPERTY

Mr. SCHERZER. Thank you, Mr. Chairman, and thank you for the opportunity to appear before this committee.

I have been in the ministry for better than 30 years. As you notice, my voice has changed, I am getting younger.

I have resided in Washington, D. C., for the last 8 years. I appear here in the interest of H.R. 8305 to which I would like to testify personally, and in behalf of the Committee for Return of Confiscated German and Japanese Property.

The committee is made up of American citizens who voluntarily have associated themselves to support the principle of private property being restored to its rightful owner after cessation of hostilities after each war.

I have a prepared statement, Mr. Chairman, that I would like to submit for the record. Attached to it is a list of the membership of our committee, and then I would like to supplement, if I may, with your permission and the permission of your members, the members of your committee, make a few extemporaneous statements to this testimony.

Mr. MACK. Without objection the entire statement will be included in the record.

Mr. SCHERZER. Thank you, sir.

We are interested, as a committee, also in the payment of war claims. We believe, and support the effort to make restoration for damages received to all American citizens and all people who have a rightful claim.

But we also assert that these claims ought not to be paid out of private, the proceeds from private property, property which belongs to private citizens, even though they are members of an alien nation.

We believe that the provisions of the Constitution of the United States ought always to apply to them, particularly in our expanding world community, and for that reason we solidly support H.R. 8305 in all its provisions. We strongly recommend to the members of your committee positive action on this House bill 8305.

Now we put on our coins the phrase, "In God We Trust," and, as Americans, we feel that we carry that phrase around with the change in our pockets justly and rightfully and sincerely and honestly.

But if we subscribe to that principle, "In God We Trust," we must also look at the other side of the coin which ought to say, "This God We Obey," and this God has given commandments and instructions to all mankind to regard blessings which are accorded individuals shall not be tampered with by other people or by powers that could deprive the individual of his rightful possesions.

Under those provisions we believe that the vested enemy property ought to be restored to its rightful private owners.

Personally, I have fought a long and difficult battle with myself, for naturally and instinctively I find much force in the arguments of those who say that the property is here, that we won the war, that we ought to use this money, this property, to take care of the people who were hurt because of this last war.

I find a lot of human logic in these arguments. But when I compare this logic and this reasoning with the clear and specific and definite injunctions which God's Sacred Word lays upon us, I must reverse my human judgment and say God's order takes priority over all the human law, and surely God's law says "Thou shalt not covet" and "Thou shalt not steal," and I cannot understand why the great number of good people who will lay down their lives to defend the principles upon which our Nation has grown strong, can so lightly set aside the principle that has directed the treatment of private property after each war in which America has been engaged and has led to a restoration of that property at the conclusion of hostilities, why, after this last war, the same course has not been taken. That we cannot understand.

I, for one, believe that it is time that we go back and examine our position under that basic principle, especially because so many of those old basic principles are deteriorating in our modern generation, and our ethical and moral behavior is not improving but rather weakening in many areas.

It would be healthy for us as a Nation and for our world if we had the will to reassert, even to the extent that it might be painful, our strict adherence to the old laws and precepts.

Now that is the sum and substance of my testimony, and on the basis of these, I urge you, sir, together with the members of your committee, to examine this whole policy which is related to H.R. 8305. Thank you.

Mr. MACK. Thank you.

Mr. Dingell.

Mr. DINGELL. Reverend, I note that you are the treasurer of your organization on whose behalf you speak.

Mr. SCHERZER. That is correct, sir.

Mr. DINGELL. Would you tell the committee who are the contributors to this organization, who finance it?

Mr. SCHERZER. Well, it is financed partially by voluntary contributions, and the contributors are on record in our office. I do not have that record with me, and it is partially financed by information services.

Mr. DINGELL. By what information services?

Mr. SCHERZER. By a periodic publication which gives the facts and developments in this——

Mr. DINGELL. In other words, the information services published by the organization help finance this?

Mr. SCHERZER. That is correct.

Mr. DINGELL. Who are the principal contributors?

Mr. SCHERZER. The principal contributors, well, one of them is Judge Learned Hand.

Mr. DINGELL. Financially he is a principal contributor?

Mr. SCHERZER. Yes, sir. He supports each year the committee with a generous contribution.

Mr. DINGELL. Who else? Does I. G. Farben make any contribution?

Mr. SCHERZER. No, sir. There are no contributions received from foreign interests.

Mr. DINGELL. Is there anybody who is a contributor of this who is not an American citizen, an American national?

Mr. SCHERZER. Not to my knowledge.

Mr. DINGELL. You say not to your knowledge; then it is possible that somebody is a contributor who is not an American citizen?

Mr. SCHERZER. Well, it is possible that we may have an anonymous contribution of $5 or $10 where we could not specifically say who the contributor is. But, as far as we have on record, contributors, they are all American nationals.

Mr. DINGELL. I am rather concerned to see your assertions in view of the several agreements we have achieved with the German Federal Republic with regard to the disposition of these assets, and that the German Federal Republic would satisfy claims of its own nationals against the United States for seizure of this property.

As I said that, the claims which lie now in this matter lie against the German Federal Republic. Am I error on this?

Mr. SCHERZER. Well, I would not want to judge the thinking of any person, sir, on this matter.

My own thinking is that we cannot farm out our responsibility to a basic moral principle to someone else and the thing that troubles me is that representatives, responsible representatives, of our Government should negotiate in an area apart from bringing that basic principle into the negotiations.

Mr. DINGELL. It appears that the representatives of the German people also negotiated in this regard, does it not?

Mr. SCHERZER. It is quite possible. I have no information as to whether the question of the private property in its proper reference to the individual has been discussed in that discussion.

Mr. DINGELL. Have you been making any representations to the German Government with regard to compensation of American citizens who have lost property through seizure by the German Government at the time of the war? Has your organization made any representations to them with regard to compensation of, for example, prisoners of war, escapees, forced laborers, inmates of concentration camps, and so forth?

Mr. SCHERZER. Well, our committee was organized principally on this one aspect of the problem, since there were many more people who were interested in the other aspect.

Mr. DINGELL. What you are telling us is you are concerned with the return of German property but you are not concerned with the losses that may have been suffered either in human values or in terms of dollar losses by reason of the Nazi government's activities; am I correct in that?

Mr. SCHERZER. I would answer this way, sir: that our concern is not particularly with German or Japanese property. Our concern is about the principle underlying that situation, and that is private property, regardless of who the owner might be, should be considered as——

Mr. DINGELL. You tell us you made no representations on, let us say, the problems of compensation of escapees, on the problems of compensation of victims of concentration camps, victims of forced labor, prisoners of war, who were kept under circumstances and conditions which did not come up to the Geneva treaty, but you are here now this afternoon discussing the return of property to persons who lost it by reason of the war, which was taken by our Government; am I correct on this?

Mr. SCHERZER. You are correct on this, with the additional explanation that I would stand just as solidly in favor of this principle if the property of Russian people were involved who were unrightfully deprived of it or any other nationals.

Mr. DINGELL. Doesn't it occur to you that your organization might interest itself in these other aspects, too? That, perhaps, it has been rather a grave oversight that you have failed to devote considerable attention to these aspects of the situation?

Mr. SCHERZER. I think our committee has considered those other aspects, and for that reason it has repeatedly endorsed legislation that was intended to meet some of those problems.

Mr. DINGELL. It has made statements before this Congress but has made no statements in any other area on this point, is that correct?

Mr. SCHERZER. May I ask what other area you have in mind, sir?

Mr. DINGELL. Well, for example, before the appropriate legislative body in the German Federal Republic.

Mr. SCHERZER. Well, are we to interest ourselves in the affairs of the Federal Republic of Germany?

Mr. DINGELL. It appears that you are interesting yourself in the affairs of the German Federal Republic when you are coming before this Congress to urge return of property seized during the war to a country which has already made a treaty promising to compensate persons who lost their property.

Mr. SCHERZER. We are concerning ourselves with the basic principle which has been operative in the United States since its very beginning, that private property was regarded as a sacred trust, belonging to the individual. That must not be taken away either by expediency or by power or any other situation without due process of law, without proper value being given in its place.

Mr. DINGELL. Have you discussed this question of due process from the standpoint of court decisions or have you considered seeking a court decision as to whether or not this property was taken without due process?

Mr. SCHERZER. Sir, I think I made it clear in my statement that I am not a lawyer and, for that reason, I would not wish to discuss the legal aspects of this problem.

I am only interested, and so is our committee, chiefly interested in the moral and ethical aspect of this problem.

In a free country where we can, thank God, speak our convictions, we believe that we can work out problems of legal and economic concern on the basis of basic principles, if we have made up our minds to do so.

Mr. DINGELL. Thank you very much, Reverend.

No further questions, Mr. Chairman.

Mr. MACK. Mr. Glenn.

Mr. GLENN. Reverend, I take it that you believe that this property should be returned to these persons whom your society represents and you also believe that the Americans who had their property seized or confiscated should be compensated, is that correct?

Mr. SCHERZER. That is correct.

Mr. GLENN. Whom, do you think, should compensate the Americans who had their property confiscated if we are going to return the property of the people whom you represent?

Mr. SCHERZER. I do not think I am competent to answer that question, sir, because I am neither a financier nor an economist nor a legal authority.

Mr. GLENN. You do not have to be, sir. If you feel that they should be compensated, certainly you must have some ideas as to the source of the compensation.

Mr. SCHERZER. I think that problem should be worked out internationally between the nations.

Mr. GLENN. Do you think that our Government should pay them the losses which they sustained?

Mr. SCHERZER. No, I do not think that the American people should pay for losses that were created by other nations.

Mr. GLENN. In that case they would not be compensated, would they, because, after all, our Government is nothing more than we, the American people.

Mr. SCHERZER. But there are other sources of revenue outside of the private property of individuals.

Mr. GLENN. What sources?

Mr. SCHERZER. There are public funds.

Mr. GLENN. What kind?

Mr. SCHERZER. There are public funds derived from taxation and other sources that could come into the picture.

Mr. GLENN. Well, who pays those taxes that go into those public funds?

Mr. SCHERZER. The citizens of other nations that were responsible for these losses.

Mr. GLENN. I do not think we are talking about the same thing. I assume when you said public funds and taxes you meant our American public funds and our American taxpayers.

Mr. SCHERZER. Well, I stated, Mr. Glenn, that this problem should be worked out internationally between the nations involved in these losses, and I meant that the taxpayers of those nations involved in the losses should be brought into the picture rather than the private individuals who happened to have a piece of property in this country.

Mr. GLENN. Well, let me ask you this one last question: Do you think that it would be proper for the American taxpayers to compensate these Americans who have lost their property by confiscation rather than using the funds which we have on hand, which you claim we are confiscating from these past enemy countries?

Mr. SCHERZER. I do not see how I can answer that question, sir, simply because I am not fully supplied with all the facts in the picture.

I only know that the good Lord has laid down a basic principle which protects every individual of all races and nations against someone else who will take property that rightfully belongs to him, and taking property one way or another is not condoned by God who still rules the universe.

Mr. GLENN. My dear sir, I am sure we are all in agreement that we should live and act by God's concepts. But in this day and age it is sometimes very difficult, particularly when we get dealing with a practical situation which confronts us by reason of the actions of some of the nations in the world that do not act by God's concepts, so that we would have to see these situations and judge them by other than the religious attitude when it comes down to the point of saying what we think is best for the persons involved.

That is all, thank you, Mr. Chairman.

Mr. MACK. Thank you very much for your statement.

I would like to ask, is this a complete list of your membership?

Mr. SCHERZER. That is the membership of the committee.

Mr. DINGELL. Are there any other persons who belong to the organization?

Mr. SCHERZER. No, sir. This is the complete membership list.

Mr. DINGELL. You have no membership outside this country?

Mr. SCHERZER. No, sir.

Mr. DINGELL. Do you receive any contributions from persons other than those listed here?

Mr. SCHERZER. Yes, from voluntary contributions of the people in this country.

Mr. DINGELL. What is the largest contribution you received last year?

Mr. SCHERZER. Offhand, without going to the records, I would say $100 was probably the largest contribution that we received.

Mr. DINGELL. That was the largest contribution you received?

Mr. SCHERZER. Yes, individual contributions.

Mr. DINGELL. Have you ever received any larger contributions?

Mr. SCHERZER. Not to my knowledge.

Mr. DINGELL. Did you receive any at the time the committee was set up, did you receive any grants or donations at that time?

Mr. SCHERZER. I am not aware of any large grant or donation at the beginning.

Mr. DINGELL. Who are the officers of your organization, the president and vice president?

Mr. SCHERZER. Dr. Frederick Libby, and Dr. Collier, who is professor emeritus of the law school at George Washington University.

Mr. MACK. Is Dr. Collier vice president or president?

Mr. SCHERZER. Yes, he is vice president.

Mr. DINGELL. Do you have any Washington representatives here?

Mr. SCHERZER. Our executive secretary is here, Mr. James Finucane.

Mr. DINGELL. Do you have a legislative representative?

Mr. SCHERZER. He is all we have.

Mr. DINGELL. Thank you.

Mr. MACK. Thank you for your statement.

(The prepared statement of Mr. Scherzer follows:)

STATEMENT OF JOHN A. SCHERZER ON BEHALF OF THE COMMITTEE FOR RETURN OF CONFISCATED GERMAN AND JAPANESE PROPERTY, WASHINGTON, D.C., FAVORING RETURN OF VESTED PROPERTY AND PAYMENT OF WAR CLAIMS

Mr. Chairman and members of the subcommittee, my name is John A. Scherzer. I am an ordained pastor of the American Lutheran Church and certified to be in good standing by the president of the eastern district. Dr. Gordon Huffman of Washington, D.C. I have been serving St. Matthew's Parish in Southeast Washington since 1953. Prior to that, from 1948 to 1953, I served as secretary for European affairs in the National Lutheran Council, a cooperative agency for over 5 million Lutheran Christians in the United States of America.

Since 1954 I have been actively interested in the problem of private property confiscated by the U.S. Government during the last World War and since its termination and which belonged—not to the government or agencies thereof—but to private individual citizens of enemy nations: specifically of Japan and Germany. Since 1954 I have been a member of the citizens Committee for Return of Confiscated German and Japanese Property and am serving as treasurer of that committee. A membership list is being filed with this testimony as information for you and your committee.

I wish to testify personally and in the committee's behalf in favor of H.R. 8305 introduced by the Honorable Mr. Cunningham on July 24, 1961.

Most enthusiastically and strongly I wish to endorse the "Declaration of Policy" on page 2 of the printed bill, H.R. 8305; especially section 2(d), lines 15 through 18.

Together with a great number of other American citizens, I believe, in the terms of that policy, that it is "necessary to reaffirm and promote respect for the basic and fundamental concept of the inviolability of private property in our national and international relationships."

The framers of our Constitution were quite clear on that issue. They understood fully that a man can only be as free as the fruits of his honest endeavors, enjoyed unhindered by his fellowman, could make him; and so they wrote into the fifth amendment the provision, "No person shall be * * * deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

Since 1918 the forces generated my Marxist philosophy have laughed at and violently opposed this basic principle of the free world, this principle which since the writing of the American Constitution has been reaffirmed in the U.N. Declaration of Human Rights as basic to human freedom.

Why, Mr. Chairman, have we as a nation so long delayed the application of this principle to the problem of the confiscation of alien enemy citizens' property located in our country?

It should have been settled as a matter of routine in accordance with the Constitution soon after the end of hostilities. Indeed, I do regret that it is necessary, at this late stage, to reaffirm a principle that we all accept and believe in.

As I indicated at the outset, Mr. Chairman, I am trained to be a pastor—a theologian. Bear with me, please, when in this testimony I refrain from legal or juridical argument. Experience has taught me long ago that a preacher must never engage in an argument with a lawyer. But a preacher has a broader reference for the assertion of moral right and principle than a jurist, and from that background I want to make the following assertion.

We have sinned as a nation. We are unjustly withholding that which belongs to another.

We must repent. We must make restoration.

Unless we face up to our recent past and surmount it, we shall be living in moral blindness, reaching from sin to sin and from error to error.

Politically speaking, the most clever, sharpwitted, keen, or artful argument in favor of holding on to this confiscated private property cannot convince me and many other Americans that the principle of the fifth amendment does not apply here. Because above it still stands the commandment of God which says to individual and nation alike: Thou shalt not steal.

On this I do not stand alone. John Adams, even before the Constitution was framed, wrote: "The moment the idea is admitted into society, that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. If 'Thou shalt not covet' and 'Thou shalt not seal' were not commandments of Heaven, they must be made inviolable precepts in every society before it can be civilized or made free."

I am fully aware of the fact than any man who takes an unqualified stand on this principle of return of all confiscated private property finds himself confronted by almost insurmountable obstacles and opposition. The moral obligation to give back runs counter to human nature and arouses strong economic and political enemies.

But in a free society, where we are free to do the good and just thing, we ought to be able to work out this confiscated property problem in accordance with our professed beliefs and principles, even if the cost is painful. The end result will produce benefits much greater and more valuable than the amount in question.

Mr. Chairman, I urge your committee to take a strong position in favor of H.R. 8305 which provides for making right two wrongs: Pay the war claims to those entitled to receive them and return the private property to its lawful owners.

Then, as Americans, we can more ably lead in a world most desperately in need of basic principles.

MEMBERS OF THE COMMITTEE FOR RETURN OF CONFISCATED GERMAN AND JAPANESE PROPERTY, WASHINGTON, D.C.

Yasuo Wm. Abiko, San Francisco, editor.
Dr. Austin J. App, Philadelphia, professor.
Col. Kurt-Conrade Arnade (retired), New York, military historian.
Dr. Harry Elmer Barnes, Malibu, Calif., historian.
Walter Boehm, Philadelphia, civic organization official.
Kenneth E. Boulding, Ann Arbor, Mich., economist.
*Dr. Goetz A. Briefs, Washington, economist.
William Bruce, Milwaukee, publisher.
John R. Chamberlain, Cheshire, Conn., writer.
*Dr. Charles S. Collier, Washington, professor.
Rabbi Abraham Cronbach, Cincinnati, professor.
Eugene A. Davidson, Chicago, editor.
Harry J. Enk, Philadelphia, civic organization official.
*Bishop Wilbur E. Hammaker, Washington, bishop, Methodist Church.
Hon. Learned Hand, U.S. circuit court judge (retired), New York.
William Ernest Hocking, Madison, N.H., professor.
George Inagaki, Los Angeles, civic organization official.
*Rev. Henry C. Koch, Washington, pastor.

*Executive board, Committee for Return. The Committee for Return is a private, voluntary organization of American citizens, advocating return as a matter of principle. It is completely unofficial in character and in no way connected with the Government.

MEMBERS OF THE COMMITTEE FOR RETURN OF CONFISCATED GERMAN AND JAPANESE PROPERTY, WASHINGTON, D.C.—Continued

Louis P. Lochner, Fair Haven, N.J., author.
*Frederick J. Libby, Washington, peace worker, chairman, Committee for Return.
*Conrad J. Linke, Philadelphia, artist.
Rt. Rev. Msgr. Donald A. MacLean, Coral Gables, Fla., professor.
*Mike M. Masaoka, Washington, civic group representative.
Gordon Hunt Michler, New York, businessman.
George D. Moulson, Old Lyme, Conn., writer.
Hon. Clifton Mathews, San Francisco, U.S. circuit court judge (retired).
Dr. Herman T. Ochs, San Antonio, Tex., foundation trustee.
Henry H. Perry, Nahant, Mass., investment banker, retired.
Clarence E. Pickett, Philadelphia, peace worker.
Prof. Otto A. Piper, Princeton, N.J., professor.
Henry Regnery, Chicago, publisher.
Dr. Harry R. Rudin, Hamden, Conn., historian.
*Hon. Francis B. Sayre, Washington, diplomat.
*Rev. John A. Scherzer, Washington, pastor.
Kenneth I. Shoemaker, West Palm Beach, Fla., businessman.
Rev. Gunther J. Stippich, Reading, Pa., pastor.
T. Henry Walnut, Philadelphia, attorney.
Hans Wirsing, New York, businessman.

Mr. MACK. Our next witness is Mrs. Barbara Spencer, of New York City.

We are pleased to have you testify before our committee today.

STATEMENT OF MRS. BARBARA SPENCER, NEW YORK, N.Y.

Mrs. SPENCER. Thank you very much, Mr. Chairman, for allowing me to do so.

I am afraid after all these learned speakers you will find my few words very informal, but I am very happy to be here to speak in behalf of a small group of private claimants against the Hungarian War Claims Settlement Funds and, in particular, with reference to the bill H.R. 7479 which, in part, divides Hungary. Inasmuch as some part of Hungary is included in it and some part is not, which might appear to be unfair to those whose property was in the part of Hungary which is not included in this bill.

I would like to say that many of the claimants are old and without means. To quote to you from a letter which I have received:

> Is there a hope to get the money? When we meet I will tell you how much I need the money. I am in a very bad situation, cannot get a job, no income, no social security, no pension. Very bad everything.

By helping these unfortunate claimants recover some portion of settlement for what they rightfully possessed and for which they deserve to receive compensation, we help ourselves, as well, since this would remove a number of them from being a possible burden to the community, and would also restore their faith in the principles of the freedom and liberty and justice for which they fought, as well as their own pride and self-confidence.

To say that the claims of Americans who lost their property in Hungary have already been acted upon, is not quite accurate. Many

* Executive board, Committee for Return. The Committee for Return is a private, voluntary organization of American citizens, advocating return as a matter of principle. It is completely unofficial in character and in no way connected with the Government.

have received less than 1 percent of the value of their losses, a token payment that cannot possibly be considered as fair compensation.

There was, perhaps, a serious miscalculation by our Government as to the sufficiency of the Hungarian funds to pay these reasonable claims.

The burden of this error should not fall entirely upon the Hungarian claimants. We ask for simple justice that we be treated like other American claimants and not be denied participation in this program because of a fictititious notion that we have already been recompensed.

We do not ask for favored treatment, but we do beseech you to give us equal treatment with all other war claimants.

The essence of our request to Congress is that American claimants against Hungary be afforded America's traditional fairplay with respect to their property seized or destroyed in Hungary.

We do not ask for an appropriation to further burden taxpayers. We would like to point out that approximately $40 million in gold of Hungarian seized funds were returned to the Communist Government of Hungary. These funds should have been, perhaps, returned as enemy property and subjected first to the claims of the American claimants. But this error is irretrievable.

We only ask then that the claimants against Hungary be included as claimants against German assets. This is the purpose of the amendment we would like to see added to the bill H.R. 7479.

There is justification for this amendment as a great deal of property damaged in Hungary was sustained in action against the Germans.

I hope, sir, that you will consider our appeal to add this amendment to bill H.R. 7479.

Mr. MACK. Thank you for your statement.

The committee is familiar with this problem, and I am sure will give careful consideration to your suggestions.

Mr. Dingell.

Mr. DINGELL. No questions, Mr. Chairman. Thank you.

Mr. MACK. Mr. Glenn.

Mr. GLENN. Thank you.

Mr. MACK. Thank you very much.

Mrs. SPENCER. Thank you very much, Mr. Chairman.

Mr. MACK. Mr. Myron Wiener.

(There was no response.)

Mr. MACK. Mr. Alan Wurtzel.

STATEMENT OF ALAN L. WURTZEL, ATTORNEY, WASHINGTON, D.C.

Mr. WURTZEL. Mr. Chairman and members of the committee, my name is Alan Wurtzel, and I am an attorney in the offices of Strasser, Spiegelberg, Fried, Frank & Kampelman, 1700 K Street, Washington, D.C.

I appear on behalf of our client, Mr. Ben Blumenthal, of New York City.

Mr. Blumenthal owned substantial property in Hungary which was destroyed during World War II. Like other Americans with similar losses, he looked forward to the day when some of these losses would be compensated. His hopes rose with the American seizure

of Hungarian assets in this country and the establishment of a fund out of which American claimants could receive compensation.

But his hopes, and those of all other Hungarian claimants were soon shattered. The Hungarian claims program actually paid nothing, not even 1 cent on the dollar, after a token payment of $1,000.

The purpose of my appearance here today is to suggest an amendment to the pending war claims bill which would rectify the disparity in Hungarian war payments and other war payments.

With the chairman's permission, rather than reading the balance of my statement here, I would like to ask that it be inserted in the record and that I proceed now extemporaneously to outline our proposal.

Mr. MACK. Without objection your entire statement will be included.

Mr. WURTZEL. Thank you, Mr. Chairman.

Mr. MACK. May I ask you, do you have a proposed amendment in this?

Mr. WURTZEL. Yes, sir. The exact text of the proposed amendment appears at the very bottom of page 9 and page 10 of my statement.

There are three basic points which I would like to make today. The first is that the pattern of war damage compensation for American damage compensation has resulted in discrimination against Americans whose property was located in Hungary.

The second point is that the pending bills, and particularly H.R. 7497 and 7283 provide an appropriate vehicle for remedying this discrimination.

Finally, there is no serious obstacle, of which I am aware, to the acceptance of the proposals which I have made.

With respect to the first point, namely, that the pattern of war damage compensation has resulted in discrimination against Americans whose property was located in Hungary, I would like to remind the committee that the basic pattern of war damage compensation has been as follows:

Americans whose property was located in the Allied countries of Western Europe, participated in the program established by our Allies. Americans whose property was in France, for example, claimed along with Frenchmen under the French program.

In all of these cases, the Allied programs were able to pay very substantial compensation, ranging up from a minimum of 35 percent to 70 percent and more in some cases.

This is also the case of Americans who lost property in Japan. They received 100 cents on the dollar. With respect to other non-Allied countries the situation has been as follows:

When it became apparent that Rumania, Bulgaria, and Hungary, the three Axis powers which are now behind the Iron Curtain, were defaulting on their postwar treaty obligations, Congress authorized the Executive to seize the assets of these countries located here in the United States, and authorized establishment of claims funds with these assets and programs for compensation of Americans whose property was lost in those countries.

The results of these programs have been that those whose property was located in Rumania have received 35 percent of their losses, and this includes war damage losses and nationalization losses.

Those whose property was in Bulgaria have received 53 percent, again for both war damage and nationalization losses.

Those whose property was located in Hungary have received nothing except a token payment of $1,000 and, again, for both—nothing above the $1,000 for either war damage or nationalization.

The estimated payment under the pending bills, according to a recent press release of the Foreign Claims Settlement Commission, would be in the order of 35 percent.

Thus, it appears that throughout the world Americans whose property was ravaged by war have received 35 percent or more compensation, and after this bill is enacted, Americans who lost property which was located all over the world, will have received such compensation, with one exception, and that single exception is Hungary, where the rate of payment as I say is less than 1 percent.

This disparity is not the result of design or a conscious policy on the part of Congress, it is the result of inadvertence.

When the administration appeared here in 1955, when the Rumanian, Bulgarian, and Hungarian programs were set up, it estimated that in the case of Hungary there would be $3 million in assets and $12 million in claims, or roughly 25 percent satisfaction.

In fact, the assets were less than $2 million and the claims ran over $60 million. That accounts, of course, for the failure of the Hungarian fund to make any payment above the initial $1,000.

Now it seems to me, that the bills which are now before this committee present an appropriate vehicle for rectifying this discrimination.

The purpose of these bills, as stated by this committee, in its report on virtually identical legislation in the last Congress, was, "to provide a measure of relief to American war claimants in areas of Europe and Asia not heretofore covered."

Our basic position is that the Hungarians are, as a matter of fact, "not heretofore covered" by any war damage legislation. They are covered in theory, they are covered technically, in the sense that a program was established and they presented their claims and these claims were adjudicated.

But, in fact, they are "not heretofore covered" because they have received virtually no compensation.

The amendment which we are proposing is limited to war damage claims against the Government of Hungary. The committee is well aware of the program established in 1955 which included both war damage claims and nationalization claims, namely, takings by the Hungarian Government after it was taken over by the Soviets.

We do not propose that Americans whose property was nationalized by the Hungarian Government participate in the German claims fund. Nationalization of property is the act of a sovereign Government, and Americans who suffered accordingly have recourse only against that sovereign government or its assets.

We think, however, that war damage claims stand on an entirely different footing. The war was started by Germany. Germany was the principal aggressor in the war.

Second, the great bulk of the damage to property in Hungary occurred after March of 1944 by which time Hungary had already dropped out of the war, and the fighting on the Hungarian soil was being carried on by the Germans.

Third, we think it is appropriate for Hungarian claimants to participate in the distribution of these predominantly German assets on the theory that Hungary and Germany were, in effect, joint tort feasors.

They were allies in the war against the Western World, and under established principles of law, familiar to all lawyers in this country, if one tort feasor is not able to satisfy an obligation, the injured party may claim against the other tort feasor. That is really the case here.

The Hungarian assets in this country were not sufficient to satisfy the claims of Americans whose property was located there, and it is for that reason that we think that Hungary's joint tort feasor, namely, Germany or the German assets which are located in this country, is an appropriate source out of which Americans whose property was located in Hungary, should receive compensation for war damage.

Now, another reason why the pending bills, are an appropriate vehicle is that they provide compensation for scattered areas in the world.

As this committee has said, they are to mop up the areas in which war damage compensation has not been paid.

One of the areas, interestingly enough, which is covered by both the chairman's bill and Mr. Harris' bill is "that territory which was part of Hungary in 1939 but was not part of Hungary in 1947."

That refers, of course, to the Carpatho-Ukraine, the eastern tip of Hungary, which was annexed by the Russians after the war.

If these bills are passed without the amendment which we are proposing, the result will be that Americans whose property was located in the Carpatho-Ukraine, which became Russian after the war, will participate in the German claims bill and receive anywhere from 33 percent upwards in compensation; whereas Americans whose property was located in Hungary proper, as it existed after the war, will have been limited to under 1 percent.

This disparity, because of the accident of drawing boundaries after the war, and these boundaries were, of course, drawn by the Russians through their fruits of conquest, will result in a disparity for Americans whose property was located in different parts of prewar Hungary.

I would like to repeat then that our basic position is that these bills are designed to cover those areas of the world "not heretofore covered," in the language of the House report in the 86th Congress.

We think that people who have received 1 percent compensation are much closer in their status to those not heretofore covered than they are to persons who have received 35, 50, or 75 percent heretofore.

The third basic point I want to make is that there are no serious obstacles which I foresee to the adoption of this amendment.

It would be difficult, I would concede, for this committee to draw lines if we had a wide spectrum of compensation. If, for example, the Hungarian claimants had received 1 percent, another group had received three, another group seven, all the way up the line in an even spectrum or gradation.

This is not the case. The Hungarian claimants have received 1 percent, and there is then a 34 percent gap to the Rumanians who have received 35 percent, and everybody alse is above 35 percent.

So that the problem of drawing lines to my mind is a very easy one. One percent is far closer to absolutely nothing than it is to 35 percent, and that is why we think this is, as a practical matter, an easy line for this committee to draw. This fact affords a real justification for including Hungarian claimants in this bill without raising the question of total equalization and all the problems that will involve.

Furthermore, this proposal would not involve any administrative costs. All of the Hungarian claims, both war damage and nationalization, have been adjudicated.

The amendment would authorize no new filings. It would merely require the Foreign Claims Commission to recertify to the Treasury, for payment out of the war claims fund, awards which have already been made, determined, and certified originally for payment under the Hungarian fund.

It would involve the clerical job of separating with respect to each award that portion of the award which was for war damages, and only that portion would be recertified.

That portion of the claimants' previous award which was for nationalization losses would not be recertified.

I do not believe that there can be substantial objection to the proposal on the ground that it would unduly dilute the interests of those claiming under the German bill. The total Hungarian awards certified to the Treasury by the Foreign Claims Commission total $60 million. But of that $60 million, $50 million concerned nationalization losses, and are not involved in our proposal. Ten million dollars, and that is the amount we are talking about, would be recertified and would be computed then for distribution on the same basis as certified awards under the pending legislation.

This $10 million is a very insignificant, insubstantial sum when compared with the estimated claims of $300 million which will be certified under the pending bills. Consequently, the recovery, the dilution, would be very small.

This proposal has received the endorsement of the former Chairman of the Foreign Claims Settlement Commission. It is supported on the Senate side by several Senators who are on the subcommittee in the Senate corresponding to this committee, and we have reason to hope that it will receive the favor of the administration.

That concludes what I wished to say.

Mr. MACK. You indicated that several Senators are supporting your amendment, is that correct?

Mr. WURTZEL. I am sorry, sir, I did not hear you.

Mr. MACK. Did I understand you to say that several Senators are supporting your amendment?

Mr. WURTZEL. Yes, that is correct.

Mr. MACK. Has this been proposed as a bill?

Mr. WURTZEL. It has not been introduced on the Senate side as a bill; no, sir.

Mr. MACK. Just how are they supporting the amendment?

Mr. WURTZEL. We have had talks with them, and they have indicated that they are sympathetic and will see that when the House passes this bill, if it does not include the amendment that we have proposed, they will endeavor to have it included on the Senate side.

Mr. MACK. Did they assure you at the same time that they would make a special effort to have this bill brought before the Senate for consideration?

Mr. WURTZEL. The Senators with whom we have been talking are very sympathetic to the rapid solution of the war claims problem.

Mr. MACK. Have you submitted this proposal to the Department of State?

Mr. WURTZEL. Yes, sir; I have.

Mr. MACK. Or to the Foreign Claims Settlement Commission?

Mr. WURTZEL. To the Department of State.

Mr. MACK. This was an administration bill, if I understand it, it was introduced by the chairman of our committee.

Mr. WURTZEL. That is correct.

Mr. MACK. Do you know any reason why this provision was not included in the administration bill?

Mr. WURTZEL. We were not privy to the discussions which occurred at the Department of State, but we were told the following: That there was disagreement as to whether or not this should be a proposal that was advocated and advanced by the Department. There were some who favored its inclusion in the bill, and some who did not think it ought to be advanced by the Department.

We have reason to believe, however, that if the Congress were to take an interest in the amendment, asked the Department with respect to its position on that amendment, that the answer would not be unfavorable.

Mr. MACK. The commitee, of course, will be interested, I think, in the views of the Foreign Claims Settlement Commission and in the State Department with regard to your amendment.

Mr. WURTZEL. I understand from Representative Lindsay who, as you know, testified on this proposal this morning, that he is endeavoring to seek the views of the Department.

Mr. MACK. Mr. Dingell?

Mr. DINGELL. No questions, Mr. Chairman.

Mr. MACK. Mr. Glenn?

Mr. GLENN. How much and what nature was the property that Mr. Blumenthal had which was destroyed in Hungary during World War II?

Mr. WURTZEL. The amount of Mr. Blumenthal's award for war damage was approximately $150,000. It involved, I know, theaters and other property of that kind, legitimate theaters, in Budapest. I do not know the details of his other property holdings.

Mr. GLENN. Mr. Blumenthal was an American citizen at the time of the occurrence in Hungary?

Mr. WURTZEL. Yes, sir. It was only because he was an American citizen that he was able to present a claim and receive an award from the Commission.

Mr. GLENN. Is he still alive?

Mr. WURTZEL. Yes, he is.

Mrs. Spencer, who testified just prior to me, is Mr. Blumenthal's daughter. She will be able to answer these questions as to the exact nature of his losses if you would like to pursue that.

Mr. GLENN. This, Mr. Chairman, is not germane to the issue, but it always gives me some interest to note the lengthy name of your firm of lawyers, and I noticed in the list of lawyers that you do not appear,

but that the No. 1 name of the firm name is Mr. Kampelman. What has happened to Mr. Strasser, Mr. Spiegelberg, Mr. Fried, and Mr. Frank?

Mr. WURTZEL. Those four gentlemen are from our New York office. Strasser, Spiegelberg, Fried, and Frank are attorneys in the city of New York, and we are associated with them here in Washington.

Mr. GLENN. They are not here in Washington, they are in New York?

Mr. WURTZEL. That is correct.

Mr. GLENN. I thought maybe it was like some of our New Jersey law firms where the original partners a hundred years ago had long since passed on, but they still carry the names and the saying is that their ghost still walks through the offices.

Mr. WURTZEL. These four gentlemen are very much alive and very active in the practice of law.

Mr. GLENN. Thank you. That is all, Mr. Chairman.

Mr. MACK. Thank you for your statement.

(The memorandum of Mr. Wurtzel is as follows:)

MEMORANDUM OF RICHARD SCHIFTER AND ALAN L. WURTZEL CONCERNING A PROPOSED AMENDMENT TO H.R. 7497 AND 7283 IN THE 87TH CONGRESS CONCERNING HUNGARIAN WAR DAMAGE CLAIMS, JULY 27, 1961

I. SYNOPSIS

This memorandum concerns a proposed amendment to H.R. 7497 and H.R. 7283, the so-called German war claims bills. The purpose of these bills is to conclude, in a single piece of legislation, the postwar policy of the American Government of providing compensation for property losses which Americans sustained during World War II. To date Americans have received compensation for property located in Allied countries and in five of the Axis countries: Japan, Italy, Hungary, Rumania, and Bulgaria. The so-called German war claims bills would cover the remaining parts of the world.

The purpose of the proposed amendment is to rectify an injustice that has unintentionally crept into our system of compensating American citizens for war damage. Up to now a separate fund has been established for each country; Americans who lost property in that country could claim against that fund. In all cases, save one, the funds have been sufficient to pay substantial awards—in excess of 35 percent of provable loss. The one exception is Hungary. Claimants suffering war damage of property located in Hungary received less than 1 percent of their provable loss.

The proposed amendment would allow Americans whose Hungarian property was destroyed by war to participate in the fund established by the pending German war claims bills. The theory is that in logic and fairness the American who sustained war losses in Hungary and received less than 1 percent in compensation is far closer in status to the American with property in those countries covered by the present bills, who has received no compensation at all, than he is to the American with property in all other European countries, where compensation has ranged from 35 to 100 percent. The proposed amendment would therefore treat him on the same basis as other claimants under the present bills and thereby allow persons suffering war damage on Hungarian soil to obtain compensation equal to that obtained by Americans suffering war losses in Germany proper, in Austria, Czechoslovakia, the Baltic States, Poland, and Yugoslovia. The anticipated recovery under the pending bills is expected to be about 33 percent. The German claims fund is sufficiently large to absorb the added cost of the relatively small Hungarian war losses without undue hardship on other claimants.

II. BACKGROUND

During the course of World War II, many American citizens who owned property abroad suffered serious financial losses as a result of military action. After the war, the Government of the United States determined, as a matter

of policy, to secure at least partial compensation for all Americans who were American citizens at the time they sustained property losses as a result of World War II. Some countries allied with the United States during the war initiated such compensation programs on their own. Similar programs in former enemy countries were provided for by peace treaties. Proposed legislation now under active consideration [1] has the avowed purpose of completing this compensation effort by making appropriate provisions for all American sufferers of war property losses who have not previously been compensated.[2]

It is submitted that if either bill passes in its present form, all American citizens with war losses will have received substantial compensation, except American citizens who lost property in Hungary. This discrimination against one group of claimants is not the result of any policy determination or design. It is the consequence of inadvertence, a consequence of the preparation of different schemes of compensation by different branches of Government which simply did not make their schemes mesh. Yet the result of this inadvertence, unless it is corrected, now will be that after hundreds of millions of dollars will have been paid out in compensation to American citizens with war losses, while one group of citizens, which sustained virtually identical losses, aggregating somewhat less than $10 million, will have remained substantially uncompensated.

III. COMPENSATION SCHEMES—PAST AND FUTURE

(a) Western Europe

Within a few years of the cessation of hostilities, the governments of the countries of western Europe allied with us during World War II had worked out programs for the compensation of their own and allied nationals (including Americans) who had sustained war losses in these countries. Payments made under these European compensation programs varied from 35 to 100 percent of the total amount of the losses sustained.

(b) Enemy countries other than Germany

Under the peace treaties concluded with Italy, Bulgaria, Hungary, and Rumania, each of these nations obligated itself to pay American citizens two-thirds of the war damage suffered in these countries. Italy lived up to its obligations and American citizens recovered the amounts provided for in the treaty under awards handed down by United States-Italian Mixed Commission. The three Soviet satellites, however, quickly defaulted, and as far as is known, no payments of any kind were made to American citizens under their peace treaties. Congress finally acted in 1955 by directing the Attorney General to vest the American assets of the governments of these countries as well as of corporations domiciled there (Public Law 84–285). Under the 1955 law, these assets were to be used to pay American citizens with war damage claims in the countries in question as well as those American citizens who lost property in these countries through nationalization by the postwar Communist governments.

When the bill which became Public Law 84–285 was under consideration, Congress was informed that the amounts of available assets in the United States, when compared with claims against the countries in question, would result in different payment ratios in different countries. The smallest anticipated payment ratio, comparing compensation to total loss, was 25 percent and was expected in the case of Hungary. According to the figures submitted to Congress the Hungarian claims fund would contain $3,176,000 and awards against the fund would be slightly under $12 million. (See Senate hearings on H.R. 6382, 84th Cong., p. 25.) The pattern which actually developed proved wholly different. The Hungarian assets vested were less than $2 million and the total amount of awards (war damage and nationalization) was in excess of $60 million, excluding interest. After all claims under $1,000 had been paid

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[1] Hearings will be held on H.R. 7479 introduced by Congressman Harris, the so-called administration bill, and H.R. 7283 introduced by Congressman Mack. For the purposes of this memorandum the differences between the two bills are of no importance.

[2] A news release of the Foreign Claims Settlement Commission, dated May 24, 1961, described the purpose of the administration bill as follows:

"Chairman Re said that various piecemeal measures, such as legislation, treaties of peace, and international agreements, aimed at settling these war-inflicted losses, have been adopted since the end of the war. However, thousands of Americans who sustained damage in various countries have had no means of recouping their losses.

"The administration's bill would effectively provide for these remaining war-damage claims attributable to both Germany and Japan."

in full and an initial $1,000 payment had been made on all other claims, as provided by law, the distribution ratio under the satellite claims programs appeared as follows:

Rumania: 33 percent; ultimately 35 percent.
Bulgaria: 53 percent.
Hungary: 0 percent; ultimately perhaps 1 percent.

Obviously, Americans with war claims against Hungary have not received substantial compensation. They are the only group which suffered such treatment under the programs put into effect thus far.

(c) *Other countries*

The stated purpose of the compensation program now under consideration is "to provide a measure of relief to American war claimants in areas of Europe and Asia not heretofore covered" (H. Rep. 1279, 86th Cong., 2d sess., 1960). The bill would authorize compensation for the war losses of American citizens where the property was located in Albania, Austria, Czechoslovakia, Danzig, Estonia, Germany, Greece, Latvia, Lithuania, Poland, and all Japanese-occupied areas. Omitted from the legislation are those areas of the world, where it was presumed that adequate provision had previously been made for compensation. (The fact that Americans with claims against Hungary had been provided for in theory was recognized, but the fact that there was no adequate compensation in practice was ignored.) It is expected that under the compensation program which will ultimately be enacted, Americans who sustained war losses in these "other countries" will receive compensation amounting to 33 percent of their losses.[3]

IV. DISTINCTION BETWEEN NATIONALIZATION AND WAR LOSSES

In considering the problems presented by compensation legislation, a clear distinction must be made between losses resulting from wartime military action and those resulting from postwar nationalization. Where American property was nationalized by the Communist government of, let us say, Bulgaria, it is quite clear that American citizens affected have a claim only against the Government of Bulgaria. On the other hand, where a war loss resulted from Soviet or German bombardment of a German position in Hungary, the claim need not necessarily be asserted against Hungary. Germany was the primary enemy in the European war, and can be held at least equally responsible for war damage sustained in the satellite countries. Indeed, if the situation is analogized to a customary tort claims, Hungary and Germay would appropriately be considered joint tortfeasors. To the extent to which the claimant was not reimbursed for his losses by one of the tortfeasors, Hungary, he should be entitled to collect the balance from the other tortfeasor, Germany.

Analyzing the awards entered by the Foreign Claims Settlement Commission under the Hungarian claims program, we can, thus, distinguish between the over $50 million of awards based on nationalization and less than $10 million based upon war damage. The former are clearly claims against the Government of Hungary and the Government of Hungary only. But the war damage claims can be asserted with equal justice against Hungary and Germany. The fact of the matter is that most of the damage to American property in Hungary was sustained after March 1944, when Hungary had dropped out of the war for all practical purposes and hostilities on Hungarian soil were carried on by Germany, on the one hand, and the Allies on the other.

V. PROPOSED REMEDY OF PRESENT DEFECTIVE LEGISLATION

As has been shown, if the proposed German claims bill is enacted into law in the form in which it was considered by Congress during 1960, substantial compensation will have been provided for all Americans with war losses except those Americans who lost property in Hungary. By substantial compensation is meant anything upward of 35 percent of the total loss. On the other hand, American citizens with losses in Hungary will, through a cruel trick of fate, have been placed in the unique situation of being compensated to the extent of 1 percent or less of their damage.

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[3] The Commission's news release cited above states that there is approximately $100 million available for transfer to the war claims fund, and that awards would exceed $300 million.

It is, therefore, proposed that the German claims bill be framed in such manner as to provide for payments to Hungarian war damage award-holders at a ratio equal to the payment ratio obtaining for other claimants against Germany. No new administrative costs could be incurred as no new claims would have to be recognized. Provision need merely be made for the recertification, under the German claims program, of Hungarian war claims awards previously handed down. Such payments as have been made under the Hungarian program (i.e., the first $1,000) would be deducted from payments made under the German claims program.

VI. POSSIBLE CONTENTION AGAINST AMENDMENT

Only one contention can be made against the obvious justice of making the foregoing adjustments for Americans who sustained losses in Hungary; that if arrangements were made for Americans with losses in Hungary, similar equalization arrangements ought to be made for others.

The following answers can be offered to this contention:

(1) The claimant with losses in Hungary, who has received compensation of 1 percent or less, is far closer in his status to the claimant with war losses in Czechoslovakia, Poland, or Greece, who has received nothing so far, than he is to the claimant with losses in Rumania, Bulgaria, or any allied country who has already received compensation in excess of 33 percent. It is, therefore, quite proper to treat the claimant who suffered losses in Hungary separately and pay him on the same basis as those who have received no compensation at all so far.

(2) Most Americans with property behind the Iron Curtain suffered both nationalization and war damage losses. The Rumanian claimant will have received 35 percent on both types of loss. The Hungarian claimant will, even if the amendment is adopted receive adequate compensation only for the war damage portion of his claim.

(3) Americans suffering war losses in Rumania, Bulgaria, and in territory of Western Allies have long since had the use and enjoyment of their awards. Hungarian claimants, even under the proposed amendment, would have 5 years to wait while the German claims program is being administered. Thus their first effective compensation will not come until 20 years after V–E Day.

VII. TEXT OF PROPOSED AMENDMENT TO H.R. 7497 AND H.R. 7283

Section 209 is hereby amended by designating it paragraph (a) and adding the following:

"(b) The Commission shall recertify to the Secretary of the Treasury, in terms of U.S. currency, for payment out of the war claims fund, awards heretofore made against the Government of Hungary under section 303(1) of the International Claims Settlement Act of 1949, as amended, in the full amount in which losses were found to have been sustained, subject to deductions as specified in section 206. Nothing contained in this paragraph (b) shall be construed as authorizing the filing of new claims."

Section 213(a)(3) is hereby amended by inserting, following the words "section 202," the following: "or recertified pursuant to section 209(b)" and by adding at the end of section 213(a)(3) the following sentence:

"Payments heretofore made under section 310 of the International Claims Settlement Act of 1949, as amended, on awards made against the Government of Hungary, under section 303(1) of said International Claims Settlement Act and recertified under section 209(b) shall be considered as payments under this paragraph and no payment shall be made on any recertified award until the ratio of distribution on awards made under section 202 exceeds the corresponding ratio of distribution on such recertified award."

Mr. MACK. Our next witness will be Mr. Herman Edelsberg representing the B'nai B'rith and the American Jewish committee.

STATEMENT OF HERMAN EDELSBERG, WASHINGTON COUNSEL, B'NAI B'RITH ANTIDEFAMATION LEAGUE

Mr. EDELSBERG. Mr. Chairman and members of the committee: My name is Herman Edelsberg. I am the Washington counsel to the Antidefamation League of the B'nai B'rith, and I have the honor today to appear on behalf of the B'nai B'rith and the American Jewish Committee.

May I begin first by expressing the appreciation of my organizations for this committee's interest in this problem and for the opportunity to make this brief statement.

B'nai B'rith is the world's oldest and largest Jewish fraternal order. It was founded in the United States in 1843. Today B'nai B'rith lodges and chapters are found in almost every country this side of the Iron Curtain.

In the United States and Canada alone, B'nai B'rith has over 1,700 men's lodges and women's chapters. Before the war there were over 100 B'nai B'rith lodges in Germany. Many of these were destroyed as a direct consequence of military operations.

As the American owner of these war damaged properties, B'nai B'rith has a direct interest in the pending war claims legislation. As an organization dedicated to the extension of the democratic way of life and the elimination of all forms of discrimination, B'nai B'rith is vitally concerned that legislation is enacted which will embody the principles of equality to which this country is dedicated.

The American Jewish Committee was organized in 1906. Among its stated objectives are the protection of the civil and religious rights of Jews and rendering all lawful assistance in the event of actual or threatened restrictions of such rights. The committee and B'nai B'rith both hold that the welfare and security of Jews in the United States are inseparably related to the preservation of equality of opportunity for all Americans.

The chairman has already noted that one of the still unresolved problems arising from World War II relates to the compensation of U.S. nationals who suffered damages as a result of military operations in Germany or territory occupied by Germany or Japan. Although the Congress has enacted programs providing compensation to Americans for war damages in Bulgaria, Hungary, and Rumania, in the Philippines and elsewhere in the Pacific, in Italy, Albania, and elsewhere by reason of Italian war action, in Czechoslovakia, and in Poland, and in Japan, no provision for payment of American war damages caused by Germany or in areas attacked by Japan has yet been made.

Our organizations warmly welcome the fact that bills to compensate Americans for these still pending war loss claims have been introduced. We are glad that these bills are not encumbered by controversial and unrelated problems dealing with vested enemy assets. Nevertheless, the bills which are now before this subcommittee contain restrictions on eligibility which in our view give rise to serious objections.

B'nai B'rith and the American Jewish Committee appear today in order to speak in support of the moral and humane principle that all claimants who are U.S. citizens should be treated equally regardless of

the date on which their citizenship was acquired. This principle is unfortunately not recognized in either H.R. 7479, Mr. Harris' bill, or H.R. 7283, the chairman's bill.

Both bills would deny eligibility to claimants who acquired their U.S. citizenship after the loss occurred, and would seriously prejudice the rights of such naturalized citizens. We believe that the restrictive definitions contained in the bills are based upon erroneous assumptions. We respectfully submit that the failure to accept the principle of equality is discriminatory and unjustified.

It is often stated, and we heard a very interesting colloquy today between Mr. Dingell and Dr. Re, that where the United States, acting on behalf of its own citizens, asserts claims against a foreign government, it can only act for those who were citizens on the date of loss. This rule, however, in the strictest sense, has no relevance here. The former enemy assets which were vested in lieu of reparations, and to large part liquidated, are by international agreement, German consent, and congressional directive, property belonging to the United States. They are the same as any other funds in the U.S. Treasury.

Although war damage claims relate to international events, they are claims of U.S. nationals payable by their own Government out of funds belonging to their own Government. They are domestic claims and not international claims, where a demand is asserted against a foreign government, have no applicability here. There is no principle of domestic or international law which would inhibit the Congress from making payments to persons who were not citizens on the date the loss occurred. In the exercise of its sound discretion, we submit, the Congress may pay war damage compensation to such persons as it finds entitled.

The failure to grant equal treatment to all citizens is, in our view, contrary to our traditions and would lead to consequences which are obviously inequitable. Persons who had fled oppression to come to the United States and who had volunteered to fight side by side with us in a war against a common enemy, would be denied the benefits of the new bill because their citizenship papers, which they eagerly acquired as soon as the law allowed, did not carry an earlier date.

Let me translate that generality into a specific illustration which can be multiplied many times.

Here are two German Jews, one 60 years of age, another 30, who managed to escape Hitler's Germany, and who came to the United States by 1939 or 1940, or early 1941.

The younger German goes into the American Army and, by virtue of his military service he is entitled to quick American citizenship.

His property in Germany is destroyed as a result of military action. He would have no difficulty in becoming eligible as a claimant under this proposed bill.

But the older man is not eligible for military service. His son is, his son goes into the service, his son may have died in the war. The father's property was damaged in Germany, but he could not get his citizenship at the earliest until 1945 or 1946, until some date after the loss of his property. He is automatically disqualified.

I want to suggest to this committee that there is no principle of international law which is as controlling in such a situation as the obvious moral and humane consideration which requires that these

two refugees who are now both citizens of the United States should have equal rights to be indemnified for losses that resulted from Hitler's war.

Those who had sought haven in the United States and had thereby forfeited all possible claims against their former government would find themselves falling between two stools, if we used this strict rule of date of citizenship. I do not think the Congress, in the exercise of wise discretion, should permit that contingency to come to pass.

Consider this contingency as against what is proposed in two of the bills before you, which would allow payments to be made to legal entities 25 percent owned by qualified U.S. nationals. Those who hold the remaining 75 percent might include avowed enemies of the United States who as corporate shareholders would indirectly obtain the benefits of compensation. So much the Congress is prepared to do in order that some American nationals should not suffer.

On the other hand, under these bills, victims of enemy aggression whose American citizenship was acquired after 1945—or the year of the war loss—would be left emptyhanded.

Surely a bill which would permit such results requires modification.

There is another aspect about eligibility which we ask the committee to reconsider. H.R. 7479 contains a restriction which appears to go even further in that it provides that no claim shall be allowed:

> Unless the property upon which it is based was owned by a national or nationals of the United States on the date of loss, damage, destruction, or removal and continuously thereafter until the date of filing claim with the Commission * * *.

In the colloquy between Dr. Re and yourself, Mr. Dingell, I thought I heard Dr. Re say that this was not the requirement of continuous nationality. This was a requirement of continuity of claim.

But, unfortunately, the language does not read that way. The language seems to require, the language plainly requires, continuity of ownership of the property on which the claim was based.

Now, this is not a quibble, because it directly affects a claim which the B'nai B'rith is interested in.

We owned, until recently, the bombed ruins of the very elaborate B'nai B'rith Building in Berlin.

About 2 years ago, at the instigation of the West Berlin Government, it was suggested that we sell them the property because they wanted to use it as part of the plan of reconstructing free Berlin. We sold them the ruin as a ruin, and we thought we had reserved specifically our right to damages flowing from the destruction of the real estate on the property, and now we find if this section 204 of H.R. 7479 becomes law, that we would, by its plain langauge, be debarred from asserting a claim that we thought quite forehandedly and prudently to reserve. I think it does not make sense.

Any American who attains his ownership of the bombed-out ruin of a house or factory would, under this provision, be entitled to compensation for the bomb damage, but another American who sold the ruin as a ruin to a local resident abroad in order that it might be rebuilt as part of Europe's reconstrutcion, would now be denied his claim for the bomb damages.

I, perhaps, am presumptuous, but if I followed Dr. Re's testimony I think, perhaps, this is an error in draftsmanship. I do not think

the administration really intended the result which is suggested by my illustration.

In 1946 Congress amended the Trading With the Enemy Act, section 23(a)(2), to make a necessary moral and legal distinction between enemy Germans and Germans who were the victims of the Nazis. The victims were no longer treated as enemy aliens and were permitted to recover vested property. At the same time, recovery was permitted to claimants who, having lost their citizenship by marriage to an alien, reacquired their American citizenship even after the passage of the act.

This congressional precedent suggests an equitable course for claimants under the bills before you. Instead of a too strict cutoff date or a blanket proscription, a rule of eligibility should be drafted which recognizes the special nature of the German claims problem.

As I listened to the colloquy of how controlling is international law in this regard, I thought I saw an analogy to what the Supreme Court has said about the due process clause in the 14th amendment.

The court says that this is just a requirement of minimum decency, of minimum fair play, binding on the States, and as of today not all the requirements of the Bill of Rights of the first 10 amendments which operate as against the Federal Government are binding on the States.

Perhaps we could say that international law makes this minimum requirement of decency with respect to indemnification of nationals. There is no reason in the world why the Federal Government should not, in the interests of equity and humanity and fair play, go beyond this minimum requirement of international law.

There are a number of bills in the Congress, particularly S. 956 in the Senate, which has such a fair rule. It would treat all citizens alike regardless of the date on which citizenship was acquired. In recent years a number of Members of Congress have introduced similar bills. These bills recognize that distinctions based on date of citizenship are untenable and should not be allowed to creep into American legislation.

Sixteen years have passed since World War II ended. Compensation for war damages has already been too long delayed. Further delay is indefensible. Restrictive definitions of eligibility lead to unjust consequences. Congress has the power to enact satisfactory legislation dealing with the claims of all American citizens equally. We say we are "one Nation indivisible"; we should not create categories of divisible citizenship. This principle has been supported by many distinguished legislators and organizations.

It is, therefore, our earnest hope that a war damage bill will shortly be enacted into law, and that all those who have become citizens of the United States before the deadline for the submission of claims will be allowed to share equally in its benefits.

Thank you.

Mr. DINGELL (presiding). Thank you very much.

Mr. Glenn?

Mr. GLENN. Mr. Edelsberg, if Congress acted as it probably should have done shortly after the end of World War II, then there would have been a lot of present American citizens who would not have shared in this settlement, isn't that so?

Mr. EDELSBERG. That is right, sir. But Congress would not then have been making what would be considered to be an offensive distinction among citizens based on the date on which they acquired their citizenship.

Mr. GLENN. All right.

Now, let me ask you this further question: Your suggestion is to make this effective upon enactment. Now, would there be some future American citizens who, perhaps, my have had some claims that would be barred from any settlement which they would have been entitled to under the general principle of equity?

Mr. EDELSBERG. Yes.

Mr. GLENN. But you have to draw the line of demarcation somewhere.

Mr. EDELSBERG. Yes, and we are suggesting, just as a matter of prudence and efficiency, you draw the line at the time of the enactment of the bill.

Mr. GLENN. That is all. Thank you.

Mr. DINGELL. Mr. Edelsberg, the Chair is very happy to welcome you today to the committee. You and I have been very close friends for a long time. I know your wise views here today will weigh very heavily on my mind in the legislation before us, in the consideration of the legislation before us.

I would like to ask you briefly about the B'nai B'rith Building in Berlin to which you alluded.

As I recall the testimony this morning, and I do not remember just where it was, we were told that one of the Government agencies favors limiting the claim only to continuity of ownership of the claim as opposed to continuity of citizenship.

Would this amendment breach the situation with regard to the lodge building and old-age home owned by B'nai B'rith in West Berlin?

Mr. EDELSBERG. Well, we are not barred either by a provision which creates continuity of claim or continuity of citizenship. We have the claim unassigned to anybody else because we reserved it when we sold the bombed out property to the West Berlin Government.

We have continuity of citizenship because B'nai B'rith is a national organization incorporated and chartered in the District of Columbia or organized elsewhere but incorporated in the District of Columbia.

So we are not troubled by the requirement of continuity of citizenship or continuity of a claim.

What troubles us is what seems to be, perhaps, a misdrafting because the language requires continuity in the position of the property on which the claim is based.

Mr. DINGELL. I see.

Mr. EDELSBERG. That is what section 204 reads in the Harris bill, in the administration bill. That seems to me something which is not required by any consideration of economy or equity or anything else.

I think, perhaps, it is just an oversight. If you are concerned about keeping speculators from trading in claims, it seems to me you do not reach it by the requirement of the possession of the property, so long as you permit the assignment of the claims, at any rate.

Mr. DINGELL. I see. Thank you very much, sir. It is a privilege to have you before the committee.

Mr. EDELSBERG. Thank you, sir.

Mr. DINGELL. The Chair will recognize next Mr. H. Clay Johnson, executive vice president, Royal-Globe Insurance Cos. of New York City.

(There was no response.)

Mr. DINGELL. Did he have a statement he wanted to submit?

(Off the record discussion.)

Mr. DINGELL. It may be that the committee will be finished in this matter today.

Mr. George Hedberg, head of the Home of Onesiphorus. Mr. Hedberg, you are welcome.

STATEMENT OF GEORGE E. HEDBERG, PRESIDENT, HOME OF ONESIPHORUS, CHICAGO, ILL.

Mr. HEDBERG. Thank you, Mr. Chairman.

I wish to thank you for the opportunity of appearing before this committee. I am the president of the Home of Onesiphorous, an Illinois nonprofit corporation which had substantial property in China in Shantung Province. I have a statement to submit which was prepared in cooperation with Mr. Samuel Hsiao, a Chinese, who was reared in the Home of Onesiphorus in China, and who was president when property was damaged and confiscated and destroyed in China.

Mr. Samuel Hsiao is now 51 years of age and he was born in the Province of Hopei, China. He speaks excellent English and Chinese. His family consists of six children, three of whom are in the United States, and three of whom are in Red China, with whom he has had no chance to communicate for some time. He was reared in the Province of Shantung in the Home of Onesiphorus, a mission for children founded by the late Reverend and Mrs L. M. Anglin, some 45 years ago. After gaining a business college education equivalent to a high school education in the United States, he was employed by the Chinese National Government as an official and had the rank of lieutenant colonel in the Chinese National Army. Mr. Hsiao had considerable opportunity to observe all the happenings in the Home of Onesiphorus from 1921 till he graduated in 1931, and continuing thereafter. He had occasion to meet a good many of the prominent people in the work of the home and in the area, including Mr. Robert Strong who was general consul stationed at Tsingtao at that time. Mr. Robert Strong is now connected with the State Department of the United States. He also had occasion to meet Mr. Edwin Elliott who now resides in Pasadena, Calif., and supervised the installation of the flour mill in the home in China.

Among the missionaries in the home in 1924 was a Miss Pauline Gliem, who is now known as Pauline Ferm, her married name, and resides in Los Angeles, Calif.

There was also a Harold Chei who now resides in Hong Kong and was in charge of the home, who knows about the original home at

Taian and its many graduates There are others who will be referred to from time to time and can corroborate a good deal of the statements that follow hereafter.

Mr. Hsiao was in the home both before and after December 8, 1941, when Pearl Harbor occurred. He was there in 1945 and after 1946 and up to 1948 in which later period he was of the National Army of Chiang Kai-shek and was connected in foreign affairs and received his pay from the Government partly in cash and partly in kind. Going back to the early period of 1921 he was intimately connected with the home and the later periods of 1946, 1947, and 1948 and going back as far as the time of Pearl Harbor he was back and forth between the home and its activities.

Many references to the home will be made, but to give an overall picture of it, it originally consisted of 38 acres and included over 72 buildings. These buildings were eventually destroyed or taken over or stripped by the Japanese and the claim herein prepared is fundamentally based upon the damage and the complete destruction of this area by the Japanese and a detailed and itemized statement will be given of the things that were on the home and in the home and were taken away. The following property was destroyed, confiscated, and stolen by the Japanese soldiers:

1. A 36-barrel flour mill which had a generating powerplant of 50 horsepower equipment. This was worth about $25,000 in American money.

2. Another small grinding mill for grinding corn and other grain which equipment was worth about $5,000.

3. A building in which there were 30 weaving looms. This was worth about $3,000.

4. A hospital and clinic with medicines, equipment, supplies, gauze and cloth. The building, equipment, and supplies were worth about $7,000.

5. There was a shoemaking plant which at the time it was taken over by the Japanese had about 2,000 pairs of shoes on hand. This building together with its equipment and inventory was worth about $3,000.

6. The building for tailoring work with 12 sewing machines. In fact, we have a picture of the sewing machines taken out into the yard for picture taking so that it could be clearly seen some of the machines they had. This whole equipment and building was worth about $7,000.

7. A carpenter shop with several machines and equipment worth about $3,000.

8. It should be noted at this point that in the winter time there were stoves for each one of these buildings so that they could be heated, and these stoves numbered about 72, each worth $50, totaling $3,600.

9. In addition to the foregoing there was a bakery and kitchen worth about $2,000.

10. A blacksmith and tinsmith shop and the former had a lathe in it. This was worth about $5,000.

11. There was a dyeing plant with layout and equipment worth about $2,000. There was a laundry. This did not have modern laundry equipment in it, but it was a place for the children and people to come and do their laundry. It had tubs and water available.

12. A dairy building and about 20 special bred cows worth about $5,000.

13. A building for farm animals in which there were at least 10 hogs. That was worth about $600.

14. A chicken farm with about 700 chickens in it and worth about $1,000.

15. A small apparel shop for storing and renovating of clothing worth about $1,500.

16. There was school furniture and equipment in the schoolbuildings, worth about $6,000.

17. There were a number of dormitories with an occupancy of a minimum of 600 to a maximum of about 1,100 children worth about $8,500.

18. The outer buildings and a barn with carts, horses, and mules worth $600.

19. An office building with equipment and supplies including at least six Royal typewriters. The building and typewriters and equipment were worth about $6,000.

20. A movie projector and equipment for educational purposes and for propaganda and for the reports worth about $500.

21. A chapel worth about $2,500 with all its contents.

22. On the 38 acres covering the area that was eventually acquired by the home, and this was placed together piece by piece as they had the money and were able to get it, they raised corn and wheat and soybeans principally. Other crops were raised there also. Included in the 38 acres was a little grove of about 3 acres. This was entirely destroyed, and it consisted of about 300 trees natural to the area including elm, oak, ash, mulberry, and pines worth about $2,000.

23. Of the equipment on hand at the time there was about 1,500 bags of 200 pounds each of wheat and equivalent to probably about 5,000 bushels for grinding into flour worth about $7,500.

24. They had a small checking bank account in the Hong Kong and Shanghai Banking Corp. This probably never exceeded more than a couple hundred dollars.

After Pearl Harbor an effort was made to compel Rev. L. M. Anglin, American missionary and founder of the home, to sign over all the property to be confiscated. This he refused to do and they carried on their campaign. This was done by the Japanese officials and it was carried on from March of 1942 through July, August, and up to the 5th of September of 1942 when Anglin lost heart and was very sick and died.

Actually the losses and damages suffered by the home are much greater than the figures listed above, and then in addition with the sacrificed life of a dear American missionary who loved his work so much.

In order to show the complete purpose of the Japanese military occupation, not only did they try to force Reverend Anglin to sign away the property of the home, but they put Mrs. Anglin in a concentration camp where she remained all during the war, and immediately thereafter in a very weakened condition she was brought back to the United States and here passed away. However, before she passed away she gave many reports of what took place and happened with all their equipment they had worked up during their lifetime of activity and work, and is included in this report.

The title of the home was taken originally in the name of Reverend Anglin as the agent for the Home of Onesiphorus, an Illinois corporation. It was registered there and registered with the Chinese in Taian. Work actually started in his private home in 1916. By 1921 it was in full operation and all the titles re-registered in the name of Home of Onesiphorus. The method of taking the orphan children was one not in accordance with Western ideas since there was no official adoption or giving for adoption, but the children were taken simply on recommendation attested of and found acceptable were taken into the home where they were fed, clothed, sheltered, and educated and brought up so that they could carry on as Christian young people and earn their own living by some trade, and there were many trades taught in the home.

In 1945 Rev. Samuel Hsiao made a return trip to Taian and he went over the whole area of the Home of Onesiphorus. It had all been reduced to a shamble and all the buildings and evidence of its occupation and the machinery had been stripped and were gone, and the place was practically a vacant spot.

Supporting documents are difficult to obtain but there are quite a few pictures that had been taken from time to time and cuts have been available that were used in some of the publicity of the Home of Onesiphorus in their efforts to gain acceptance by their supporters in the United States and their friends here. They were accompanied by supporting pictures and from time to time will be able to add to the names of supporting witnesses many of whom are spread throughout the world and through the United States, but many of whom can be located and will add to the report herein. The children who were in the home have been lost track of in many cases. They have been spread all over China by both the occupation from time to time by the war lords, thereafter by the invasion of the Chinese, and finally by the destruction visited by the Communists. However, it may be noted that the principal destruction took place by the Japanese invasion and there was not much left for the Communists to carry forward.

While the physical improvements were destroyed and are gone there remains still the land for which title was taken, originally in the name of Rev. L. M. Anglin and thereafter by the Home of Onesiphorus and then in various agents for the home, and the whole is now in the hands of the Chinese Communists. What they are doing with it we are not able to ascertain.

I want to say that I would urge passage of H.R. 7479 on the basis of the statement I have made, and I would say to the committee that the enactment of the proposed legislation would certainly bring great and meritorious benefit.

(The attachment to Mr. Hedberg's statement follows:)

Recapitulation of buildings, equipment, inventory and supplies that were destroyed, confiscated and stolen from the Home of Onesiphorus in Taian, Shantung Province, China, by the Japanese soldiers following the Pearl Harbor Incident, Dec. 8, 1941

1. Flour mill	$25,000
2. Grinding mill	5,000
3. Weaving shop	3,000
4. Hospital and clinic	7,000
5. Shoemaking plant	3,000
6. Tailoring shop	7,000
7. Carpenter shop	3,000
8. Stoves	3,600
9. Bakery and kitchen	2,000
10. Blacksmith and tinsmith shop	5,000
11. Dyeing plant	2,000
12. Dairy building and cows	5,000
13. Other farm buildings with animals	600
14. Chicken farm	1,000
15. Small apparel shop	1,500
16. School and furniture and equipment	6,000
17. Dormitories	8,500
18. Outer buildings, equipment, etc	600
19. Office building, etc	6,000
20. Movie projector and equipment	500
21. Chapel	2,500
22. Grove of trees	2,000
23. Wheat	7,500
24. Cash in bank	200
Total	106,900

Mr. DINGELL. We certainly appreciate your kindness.

You recommend the enactment of H.R. 7479?

Mr. HEDBERG. 7479.

Mr. DINGELL. I would assume you would also commend to the committee 7283 by Mr. Mack?

Mr. HEDBERG. I am not acquainted with that particular one, so I could not speak on that bill.

Mr. DINGELL. I see.

Your organization is covered though by the bill which you mention, 7479?

Mr. HEDBERG. That is right. There is a total value which we have computed to be approximately $107,000.

Mr. DINGELL. I see.

Mr. HEDBERG. There has been no settlement made of any kind, and a settlement certainly would be helpful in the type of work which this organization had originally been established to carry on among Chinese on into Hong Kong.

Mr. DINGELL. This home that you mention is a religious institution belonging to which religion?

Mr. HEDBERG. It is a Protestant organization, not any particular denomination affiliation.

Mr. DINGELL. The proceeds, if the claim is honored by the Federal Government, will go to continue the same work?

Mr. HEDBERG. Continue the same work amongst Chinese in the Far East and, most likely, in Hong Kong.

Mr. DINGELL. Very good. Mr. Hedberg, we certainly appreciate your courtesy this afternoon and we appreciate your being with us. Thank you very much.

Mr. HEDBERG. Thank you.

Mr. DINGELL. The Chair will now recognize Mr. Oscar Houston of Bigham, Engle Jones & Houston, 99 John Street, New York.

STATEMENT OF OSCAR R. HOUSTON, ATTORNEY, NEW YORK, N.Y.

Mr. HOUSTON. That is right. I testified before this committee in 1959, and filed a brief.

There is nothing new that I can add to my remarks on that occasion, and I will not trespass on the committee at this time.

Mr. DINGELL. Mr. Houston, I certainly appreciate your courtesy.

Would you just answer a couple of brief questions so that we can have the record clear?

You appear, I assume, in support of H.R. 7479 and 7283; am I correct?

Mr. HOUSTON. The bill, Mr. Harris' bill.

Mr. DINGELL. Yes.

Mr. HOUSTON. Yes. I have no objection to Mr. Mack's bill.

Mr. DINGELL. All right.

Do you have any specific interest in any particular portion of this bill that you would like to stress before the committee today?

Mr. HOUSTON. I do not think so.

Mr. DINGELL. Mr. Houston, you have been most kind, and I hope you will accept the Chair's gratitude for your kindness and courtesy today.

Mr. Edward L. Merrigan.

STATEMENT OF EDWARD L. MERRIGAN, ATTORNEY, WASHINGTON, D.C.

Mr. MERRIGAN. Mr. Chairman, I have no prepared statement. My testimony will be extremely brief and to the point on a particular problem involved.

Mr. DINGELL. Mr. Merrigan, you are welcome, and we are glad to afford you an opportunity to express your views fully.

Mr. MERRIGAN. I will be very brief, and I appreciate what you say, Mr. Chairman.

I am here, Mr. Chairman, as an attorney, and I represent the Aris Gloves, Inc. That is a corporation from the State of California.

Aris Gloves was a corporation, Mr. Chairman, organized in 1921 by a family, all citizens of the United States, residing in the State of California. The company had been operated prior to 1921 as an individually owned firm, and was one of the most respected firms in the city of San Francisco.

In 1921 the three sons of the founder of the business, after the conclusion of World War I, went over to Germany and Czechoslovakia and organized small plants for the manufacture of gloves. They had one plant located in what is presently East Germany and which, under these bills, would be Germany as it existed in 1937.

They had two other small operating plants in Czechoslovakia. The company, of course, Mr. Chairman, is highly in favor, after some 20

years of waiting, of these bills authorized by the chairman, Mr. Harris, and by the chairman of the subcommittee, Mr. Mack.

The problem in respect of the two bills, as we see it, is as follows, and maybe it is because of our misunderstanding of what is intended, but if we are not clear on this we feel that it should be covered in the bill.

Both of these plants began to be taken by the Germans through all sorts of measures in 1938, not in 1939.

If you recall history, after Munich, Hitler went into the Sudetenland of Czechoslovakia on October 1 of 1938, and these folks from California are of the Jewish faith, and whether you were American or German or Czechoslovak, if you were of that faith at that time your business was not one that could be continued to be operated.

The American owners left the factories, came to the United States, and during the war all of these plants were taken over by what would be the German alien property custodian, and were held during the entire war under the jurisdiction of the alien property custodian.

Mr. DINGELL. What did you say the date of the taking was?

Mr. MERRIGAN. It was a series of takings, Mr. Chairman. They started in 1938 to take all the inventory out of the plant and to sell it to the German industry. Then they forbade you to make any shipments out of the plants in 1938.

This is in Germany itself.

Then in Czechoslovakia they put all sorts of restrictions on the operation of the plants in Czechoslovakia, but at the beginning of the war in 1939 they actually took the property as a war measure because it was American owned.

Mr. DINGELL. In other words, the actual taking was in 1939?

Mr. MERRIGAN. I would say so, but since we have to try this case before the Foreign Claims Settlement Commission some day I want to be clear that when you say that the period involved in this bill in section 202 of both of the bills, the Mack bill and the Harris bill, it is listed as starting on September 1, 1939, and we feel that the date should be starting October 1, 1938, when Hitler invaded the Sudetenland.

If it is intended, if that type of taking which commenced in 1938, and went over to 1939 was covered by the bill, then I would hope as a minimum that the committee report would so state so there could be no legal reason why we would be excluded because of the beginning date.

Mr. DINGELL. I read before me title II, section 201, which mentions continental limits, December 1, 1937.

Mr. MERRIGAN. I was speaking, Mr. Chairman, of section 202(a).

Mr. DINGELL. I see.

Mr. MERRIGAN. Which talks about physical damage or physical loss or destruction of property in Czechoslovakia or Germany, and the beginning date is given as September 1, 1939, and our fear is that since we began to lose part of our property in 1938 when Germany started to exercise these pressures on American property, those were during days when we had the lend-lease program in operation, and when Hitler had already gone into the Sudetenland, that history won't betray us here, and we will really remember that the war informally

started at least in 1938, and did not get to be formal until September 1, 1939.

Mr. DINGELL. I believe lend-lease went into effect considerably after this date.

Mr. MERRIGAN. Mr. Chairman, I think that we were actively or rather inactively engaged on the side of the—this was after Munich.

Mr. DINGELL. We may have been supporting the British, but lend-lease did not officially go into effect until sometime in the forties, 1941 or 1942.

Mr. MERRIGAN. There is not any question of that, that Hitler did go into the Sudetenland October 1, 1938, and it was impossible from that period forward directly to operate the plant.

I want to make clear on the record insofar as our property is concerned, it was not taken by war action, that is, by the alien property custodian of Germany until 1940 and 1941. The German property and the Czechoslovakian property.

Mr. DINGELL. That is, the physical plant was taken?

Mr. MERRIGAN. The physical plant was taken by the alien property authorities in Germany. Of course, all the machinery was taken out, and in Germany the East German plant was used as an actual barracks for foreign workers who were brought by the German Government into Germany, I am told, and that was a manufacturing facility for the German Government. But we feel we would be less than careful if this date established here, if we did not at least call the committee's attention to the fact that war actions were being taken against Jewish property and American property in those areas, particularly the Sudetenland and East Germany. This is right over the border one from the other, Germany across Czechoslovakia, in 1938.

The other problem, though, Mr. Chairman, is of even greater importance, and it is a further clarification of section 202(a) for this reason: the plant of Aris Gloves in East Germany has never been recovered at all by the company, and has never been used by the company since the original loss at the beginning of the war for the reason that it is located in that part of Germany which was given to the East Germans. It is now under the control of Russia.

There is no claims fund of any kind applicable to this type of loss at the present time, and there has been no such claims fund.

We feel that under the circumstances where an American company, and this one particularly, Mr. Chairman, is a small family-owned corporation, where there is not a lot of capital in this thing, and it is a couple of small, it is a relatively small, group of losses, that the original loss, having taken place in 1940, 1941, when the company lost its plants, that that should be considered a total loss in cases where the plant has never been recovered, and I would not think that our chances of ever recovering it in the close foreseeable future from East Germany are good whatsoever and, of course, the same thing is, unfortunately, true about the plants in Czechoslovakia.

Shortly after the war Czechoslovakia became a Communist-controlled country, and we thought that the first ray of hope in 20 years began to shine a short time back when they got the $9 million Czechoslovakian fund established. But because of the citizenship requirements, which are very broad in that particular statute, and because there were so many claims against Czechoslovakia, we found that al-

most $400 million worth of claims were asserted against the $9 million fund, and assuming that the Commission will still cut those claims down to $100 million worth of awards, the day is very dark still insofar as the recovery of any substantial amount in Czechoslovakia is concerned.

So the amendment we would suggest, Mr. Chairman, would be to amend section 202(a) at the end of the section and would simply provide that in case of properties lost by bona fide American companies at the beginning of the war or during the war period, as specified in the bill, would be considered totally lost if the American owner has never been able physically to recover the property or has never been able to use the property again for reasons beyond its control.

We do not want to include somebody who just said, "I don't want to go back to Germany and Czechoslovakia and operate again," but if these properties have gone behind the Iron Curtain because of the war settlements which were made at Potsdam, and so forth, at the end of the war, then certainly we feel that Germany is as responsible for that as well as originally the thief who takes your property and it is stolen from that thief.

You would certainly want to recover from the thief who first took your property, and that is the basic amendment which, it is my understanding, Mr. Chairman, that the Congressman from California, Mr. Younger, plans to offer as an amendment to cover that situation, because it does relate to a company within his district.

Mr. DINGELL. Thank you very much. We appreciate your being with us today.

Mr. MERRIGAN. Thank you very much, Mr. Chairman, for your kindness.

(The following letter was later received from Mr. Merrigan:)

WASHINGTON, D.C., *August 3, 1961.*

HON. PETER MACK,
Chairman, Subcommittee on Commerce and Finance,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MACK: This is to thank you most sincerely for the attention you afforded yesterday to the very serious questions which confront the company from California which I represent in its effort to obtain some just compensation after 20 years for the loss of its plants in Germany and Czechoslovakia. Congressman Younger has assured us he will fully endorse the fairness and validity of our position, both before your subcommittee and the full committee, and will present, for your further consideration, the amendments we discussed yesterday.

May I add the following comments regarding this additional matter which was discussed before your committee by various witnesses at the hearing yesterday:

Claimant eligibility.—As stated yesterday, no one presently knows, with any great degree of certainty, how much money will finally be available for inclusion in the German claims fund, or the total amount of claims to be asserted under the bills, as presently drafted. If the dikes were opened so that every person who has become since the war and who becomes a citizen of the United States in the future up to the date upon which a bill finally becomes law, are included, the result would be that (*a*) the claims would easily exceed $1 billion, perhaps much more, and (*b*) no claimant would receive fair or reasonable compensation. And, of course, the adoption of that policy would mean that persons becoming citizens in 1961 or 1962, 17 years after the end of the war, would be allowed to raid the very limited U.S. fund to assert claims long ago forgotten by them, and the assertion of which they never anticipated when they applied for naturalization. In other words, they would reap a totally unexpected and undeserved windfall, at the expense of bona fide American claimants.

I am sure you realize also that the bulk of these claimants, who were not citizens on the date of loss, are not poor persons without means. In the Czechoslovakian claims fund, consisting of only $9 million, claims filed by persons who had left Europe to escape the war in 1939 or the early forties, totaled $400 million and ranged in amounts such as $18 million, $30 million, $8 million, etc. Some families, such as the Wyman and Petschek families from Czechoslovakia, filed claims totaling many millions of dollars for each member of the family.

Thus, in fairness to U.S. citizens who lost their property during the war and who have a right to expect a fair recovery out of the war claims fund after 20 years of waiting, the claimant eligibility test of H.R. 7479 and 7283 should remain unchanged.

But, if great pressures should develop which unfortunately make it impossible for the subcommittee and the committee to resist some provision for persons who become citizens up to the date upon which the bill becomes law, may I suggest, at the very most, a reasonable compromise, such as Congress adopted in the Italian claims fund. The fund consisted of $5 million. Claims of U.S. citizens, who were citizens on the date of loss, totaled only $3 million. Thus, in 1958, by Public Law 85-604 (72 Stat. 531; 22 U.S.C., sec. 1641c), Congress extended "claimant eligibility" against the Itanlian fund to include all natural persons who were citizens on August 9, 1955, the date upon which the Italian fund became law, but they were to be paid only out of the balance remaining in the fund after the citizens on the date of loss were paid. The specific provision reads as follows (at 22 U.S.C. 1641c):

"Upon payment of the principal amounts (without interest) of all awards from the Italian claims fund created pursuant to section 1641a of this title, the Commission shall determine the validity and amount of any claim under this section by any natural person who was a citizen of the United States on August 9, 1955, and shall, in the event an award is issued pursuant to such claim, certify the same to the Secretary of the Treasury for payment out of remaining balances in the Italian claims fund * * * notwithstanding that the period of time prescribed in section 1641o of this title for settlement of all claims under this section may have expired."

It is interesting to note, however, that organizations such as the American Jewish Committee, which now comes before your committee and asks you to reject the long-established rule of international law and Federal policy which has governed all American claims funds to date, to wit, that a claimant, to be eligible, must have been a citizen of the United States on the date of loss, took directly opposite positions when it was to their advantage to do so. For example, Seymour J. Rubin, foreign affairs counsel for the American Jewish Committee, testified as follows before the Senate Foreign Relations Committee on April 12, 1960, with reference to this very same problem in connection with the Czechoslovakian claims fund, at page 24 of the hearing record, when it was proposed that the eligibility standard be tightened, rather than broadened:

"As the committee well knows, the traditional test which the United States has applied in protecting the rights of American citizens in relation to their property abroad has always been whether the person affected was an American national as of the date of injury to his property. * * *

"Over the long history of controversy between the United States and the numerous foreign countries which have in one way or another, and whether in sweeping or more limited terms, sought to expropriate American-owned property, no distinction other than this has ever been observed.

"It would be deplorable if a distinction were now introduced into the law within the United States, deplorable both from the point of view of the damage done to the rights of citizenship acquired by naturalization and from the point of view of protection of American interests abroad.

"I may point out that the International Claims Settlement Act of 1949, as variously amended, has always adhered to this standard."

Again, with appreciation for your courtesy and attention, I am,

Respectfully,

ED. L. MERRIGAN.

Mr. MACK (presiding). Mr. Donald Connors.

STATEMENT OF DONALD D. CONNORS, JR., ATTORNEY, SAN FRANCISCO, CALIF.

Mr. CONNORS. Thank you, Mr. Chairman. I have a prepared statement which is brief. I will not read it, but I will be even briefer.

Mr. MACK. Your entire statement will be included in the record.

Mr. CONNORS. Thank you, Mr. Chairman.

I appear, of course, for I am a lawyer in the law firm of Brobeck, Phleger & Harrison, and we represent the Strachwitz family, to which Mr. Baring addressed himself this morning.

I would like to say only this, Mr. Chairman, that the mother and father of that family are getting on toward the twilight of their lives.

The true beneficiaries of H.R. 3866 would be the six children.

Now, of course, they are all citizens, as Congressman Baring said. One of them is a line officer in the U.S. Navy; one of them has finished 3 years in the Army; the two girls teach school; one works for the Atomic Energy Commission; and they are as American as any family anywhere in this country.

It is true, of course, they did attain citizenship after the vesting order, and that is one reason we cannot get any relief by way of litigation, and we are here solely for a matter of legislative grace.

On the other hand, however, the passage of H.R. 3866 would not cost the Government any money in the sense that the appropriation made for this kind of a return in 1950 is more than ample to cover this family, and the only other family in the same category, which I truly believe exists, and that is Mrs. Denson, who is here today.

We are quite sure that there are only two families in this category, and that is really not hard to understand because I am sure you will recall that at the end of the war, and even now, anybody who was a Nazi or who was a war criminal was not only ineligible for citizenship but could not really even be admitted to the United States, and this is still true.

The only other thing I would like to point out, ironically enough, the Strachwitz family estate in Germany was vested or seized, by Communist Russia. It was in the lower southwestern part of Germany, so this family is in the position of having its German property taken by the Communist Russians, and its American property taken by the American Government. They have simply no place to turn now except to the Congress.

That is all I have to say, and I thank you.

Mr. MACK. Does the Strachwitz family—do they live in Nevada?

Mr. CONNORS. They live in Reno; yes, sir. They are direct descendants of the two U.S. Senators from the State of Nevada. It is their ancestral home.

Mr. MACK. Any questions?

Mr. DINGELL. No questions.

Mr. CONNORS. Thank you.

Mr. MACK. Thank you very much.

(The prepared statement of Mr. Connors follows:)

STATEMENT OF DONALD D. CONNORS, JR., IN SUPPORT OF H.R. 3866

Mr. Chairman, gentlemen, my name is Donald D. Connors, Jr., and I am a lawyer from San Francisco, Calif. I represent a family of U.S. citizens named Strachwitz who reside in Reno, Nev., and I appear in support of Congressman Baring's bill, H.R. 3866.

Much has already been said about the merits of this bill and I endorse what has been said by Congressman Baring in his appearance. I do not propose to waste time by repeating what he has said for the merits of this legislation as it applies to the Strachwitz family are plain and need no elaboration.

I should like, however, to point out that the real beneficiaries of this bill insofar as the Strachwitz family is concerned are the six children. I say this because both Mr. and Mrs. Strachwitz are nearing the twilight of their lifetimes. They may, and I indeed hope they do, live many years, but in any event it is their children to whom their property will ultimately come. As Congressman Baring has said, one of these children has graduated from the U.S. Naval Academy and is currently on duty with the U.S. Pacific Fleet. The other son has just graduated from the University of California, after having served 3 years in the Army of the United States. It is his ambition to teach in our public schools, and I can think of no one more qualified to do so.

Of the four daughters in the family, one works for the Atomic Energy Commission and one teaches school in Nevada. The other daughters, who are twins, are in school.

Mr. Chairman, you may search your State or any State in the Union without finding a family of children more representative of young America that is this family. I do not think you could possibly find a family of young Americans more deserving of your immediate attention than this family.

I respectfully commend H.R. 3866 as good legislation and as just legislation. I respectfully and earnestly request that you report it favorably just as soon as you can possibly do so.

Mr. MACK. Mrs. Denson, would you like to testify today? We will be glad to hear you.

STATEMENT OF MRS. WILLIAM D. DENSON, ACCOMPANIED BY CHESTER SHORE, ATTORNEY

Mrs. DENSON. I would like to introduce Mr. Shore, who is here because my husband could not come.

Mr. MACK. Mrs. Denson, you made an appearance here before the committee last year.

Mrs. DENSON. I think so, last year. I have really not much to add, of course, but I would——

Mr. MACK. You live in New York?

Mrs. DENSON. That is right; and I flew down this morning.

Mr. MACK. We will be happy to receive your testimony.

Mrs. DENSON. Can I read my statement again?

Mr. MACK. All right.

Mrs. DENSON. Mr. Chairman and members of the House Interstate and Foreign Commerce Committee, I would like to thank the members of this committee for the opportunity of appearing before you.

I am Constance Denson and my husband is William D. Denson, a practicing attorney in New York City, and I might also add a graduate of West Point, who has among other wartime activities served this country as chief-of-counsel and chief prosecutor in the Dachau, Flossenberg, Mauthausen, and Buchenwald concentration camp trials in Germany.

I was born in Upper Silesia, Germany. I was 16 years old at the outbreak of World War II. In 1945 I fled my home from the invading Russians and in 1948 I entered the United States on an immigration visa. In December 1949 I married Mr. Denson and in 1951 I was naturalized as an American citizen. This marriage has resulted in two children born in this country who are American citizens. I and my family reside in Long Island, N.Y.

In 1898 my great-grandfather Edwin F. Knowlton, an American citizen, created a trust fund. This fund consisted of U.S. bonds and other securities and has a present value of approximately $2 million. It was placed in trust in two banks in New York: The Brooklyn Trust Co. and the City Bank Farmers Trust Co. This property at all times remained in this country, has borne its share of taxation, and could never at any time be used for furthering Germany's war effort against this country.

In December 1944 my father, who had been a resident of the United States since 1940, died. By the terms of the trust, I and my brother Edwin Sierstorpff, who is also now an American citizen, became entitled to receive the principal of the trust. However, the action of the U.S. Government in vesting this property has deprived us of this legacy.

In March 1945 when I fled my home in Upper Silesia, the Russians confiscated all my family's property that was located in that area. This together with my legacy, which has been taken by the Office of Alien Property, constitutes all the property that my brother and I have owned.

Now I have nothing. I do not look forward to receiving justice from the Russians because I realize that their philosophy does not recognize the private property of an individual. On the other hand, I earnestly and sincerely believe and hope that I will receive justice from my adopted country and country of my ancestors—a country that recognizes the sanctity of private property—and that the property left to me by my great-grandfather, an American citizen, will be returned to me.

H.R. 3866 would return the vested alien property to persons like myself who are now American citizens. Similar legislation has been in the past considered by the Senate Judiciary Committee and reported out favorably.

In these Senate reports, the Senate Judiciary Committee states that the disposition of vested assets presents a question of vast scope, but the return of vested assets to those who are now American citizens would create no problems whatever. The committee concludes, therefore, that our own American citizens affected by the harsh provisions of the Trading With the Enemy Act, should not be required to wait until such time as Congress is prepared to resolve the entire question of the disposition of vested alien assets. Further, as the reports state, this is strictly domestic legislation, and, as the Department of State observed at the hearings, would not give rise to foreign policy considerations.

Moreover, no appropriations would be necessary to carry out the provisions of this legislation, since Congress in prior legislation has provided for the return of vested alien property in other cases up to $9 million, which limitation has not been exhausted and is made applicable to H.R. 3866.

I respectfully point out to the committee that the Office of Alien Property has adopted the policy of returning vested property to Hungarian refugees who have since come to this country. I would urge that it is more than just that American citizens should be treated equally as well.

The Senate Judiciary Committee reports make clear that the Bonn Agreement would not provide any benefit to me, and others like me, who are now American citizens. Even assuming that Germany was obligated under that agreement, and could and did repay its citizens, that agreement provides for compensating German citizens, not American citizens. I am an American citizen. I am proud of it. I know your customs and your way of life. It is now my way of life. Needless to say, I love my new country with all my heart. But, I cannot help express a feeling of sorrow that this country has seen fit to take my private property that had been left to me, through a policy which is so utterly inconsistent with what I believe to be one of the keystones of this Government, namely, the sanctity of person and property.

I am confident that this committee will do what is right and just, not only for me, but for other American citizens whose private property has been taken and who can look only to the United States and specifically to you for restitution.

I urge favorable consideration of H.R. 3866, and again wish to thank you for the opportunity of appearing before you.

Mr. MACK. Thank you very much. Are there any questions?

Mr. SHORE. Mr. Chairman, I am appearing with Mrs. Denson.

Mr. MACK. We are pressed for time, and I hope you make your statement short.

Mr. SHORE. I will. I just want to emphasize that the Bonn Agreement will not provide any compensation to Mrs. Denson, and this body here is the only body that could provide for any compensation to her or any restitution.

Mr. MACK. Thank you.

The committee will stand adjourned until 10 o'clock tomorrow morning.

(Whereupon, at 4:35 p.m., the committee recessed to reconvene at 10 a.m., Thursday, August 3, 1961.)

WAR CLAIMS AND ENEMY PROPERTY LEGISLATION

THURSDAY, AUGUST 3, 1961

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE AND FINANCE OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, at 10 a.m., in room 1334 New House Office Building, pursuant to recess, Hon. Peter F. Mack, Jr. (Chairman of the subcommittee) presiding.

Mr. MACK. The committee will come to order.

This morning we are continuing hearings on H.R. 7479, H.R. 7283, and H.R. 5028, to amend the War Claims Act to pay certain World War II losses, and all related bills.

Our first witness this morning will be our colleague, Hon. Howard Robison, of New York.

STATEMENT OF HON. HOWARD W. ROBISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. ROBISON. Mr. Chairman, members of the subcommittee, I am Representative Howard W. Robison, of the 37th District of the State of New York, and I appear here again, Mr. Chairman, this morning, in behalf of the over 8,000 citizens of the United States who are employed by one or the other of the several facilities owned by the General Aniline & Film Corp., the controlling interest in which, as you know, is held by the Alien Property Custodian.

I appear specifically in behalf of my bill, which was introduced in this Congress under title H.R. 1878, and a companion measure introduced by your colleague on the committee, Mr. O'Brien of New York, under title of H.R. 3460.

Of course, as the subcommittee will recall, similar bills were introduced in the last Congress. Mr. O'Brien's bill at that time being known as H.R. 404, and the O'Brien bill was favorably reported by this subcommittee to the full committee and then near the end of the session the full committee ordered it reported, but, unfortunately, that was where progress ended.

Meanwhile over in the other body a companion bill introduced by Senator Keating in the last Congress and known as S. 1103, was also favorably reported by a subcommittee of the Committee on the Judiciary, but never received full committee action.

Mr. Chairman, the Senate bill has been reintroduced this year under title S. 769. Its sponsors this year are Senator Keating, who has been joined by Senator Javits of New York, Senator Case of New Jersey, and Senator Williams of New Jersey.

I should like to point out very briefly, Mr. Chairman, that while the testimony and evidence that has been given on this particular proposition has been lengthy and is contained in these volumes with which I know you are completely familiar, the key point I would like to stress this morning would be these two paragraphs taken from the report on the bills in the last Congress submitted by the Department of Justice, under date of July 22, 1959, to Mr. Harris, chairman of the full committee.

Those two paragraphs read as follows, and I quote:

> Under present law General Aniline & Film will be continued under Government control indefinitely. The inflexibility inherent in such control has hampered its operations. The company's management believes that new capital, difficult to obtain in adequate amounts so long as Government control continues, is necessary to maintain the corporation in a strong competitive position. Fear of insecure tenure makes it difficult for the company to attract and to hold the qualified research and executive personnel which are vital to the advancement of a business in today's economy. These, and other disadvantages of Government ownership make the task of maintaining this enterprise on a sound basis a most formidable one. Since the maintenance of General Aniline & Film as a strong productive organization is important to the public interest and welfare, the promotion of the national interest is the most important aspect of the leglislation.
>
> It should be noted, however, that H.R. 404 and H.R. 1345 contain safeguards for the interests of the private claimants to the vested stock. All of these claimants are given the choice of attempting to recover the proceeds of sale or of seeking the just compensation guaranteed by the Constitution.
>
> Finally, it should be added that the proposed legislation offers the additional advantage of ending the Government's unnatural role of owner of a private competitive business.

Mr. Chairman, there has been really no change in that situation nor in the import of those words from then until today, with the exception, of course, of the change in administrations.

Since we do have different people now at the policymaking level, it would be helpful, I am sure, for those of us who are interested in this proposition to find out as soon as we can the position of the new administration on this proposal.

In view of the gathering storm clouds over Berlin, it seems to me that the increasing importance of General Aniline's facilities as a part of our defense effort would clearly indicate that the position of the new administration should be the same as that that has been indicated, on a bipartisan basis, by previous Attorneys General, starting with Attorney General Howard McGrath of the Truman administration, and following through with the Attorney General who submitted the report from which I have just quoted.

Thank you, Mr. Chairman; that completes my statement. I am grateful to you for the opportunity, on such short notice, of being able to come in and speak in behalf of this bill.

Mr. MACK. Mr. Robison, we have not received reports from the agencies as yet.

Mr. ROBISON. I understand you have not.

Mr. MACK. But your bill is identical with the one this committee reported favorably last year. Is that correct?

Mr. ROBISON. That is correct.

My bill is H.R. 1078 in this Congress. Mr. O'Brien's bill, identical with H.R. 404, which you reported favorably last year, is known in this Congress as H.R. 3460.

Mr. MACK. Are there any questions?

Thank you very much for your testimony.

Mr. ROBISON. Thank you, sir.

Mr. MACK. The Chair has had an opportunity to look over the list of witnesses. I have noted that most all of the witnesses appeared in this hearing before this committee last year. At least a representative of the same group appeared last year.

As I stated yesterday, and at that time perhaps some of you were not here, it is the intention of the committee to rely heavily on the record which was made 2 years ago because we feel that it is an excellent and very thorough record, including 750 pages of testimony.

It is not our intention to duplicate the hearings that were held 2 years ago. Therefore, I am hoping that witnesses before the committee will limit their testimony to new matters that were not included in the previous hearings.

As I stated yesterday, anyone desiring to do so will be given an opportunity to file his statement in the record.

It is the intention of the Chair to wind up the hearings this morning promptly at 12 o'clock and, therefore, I am going to ask the witnesses to be very brief with their testimony.

The Interstate and Foreign Commerce Committee has a bill on the House floor this afternoon which was scheduled last night and, therefore, the members of this subcommittee will have to be on the floor at that time.

Our next witness today is Mr. Myron Wiener, of the Far East Group, Inc., Washington, D.C.

STATEMENT OF MYRON WIENER, ON BEHALF OF THE FAR EAST GROUP, INC., WASHINGTON, D.C.

Mr. WIENER. Mr. Chairman, my name is Myron Wiener. I am a lawyer with offices in Washington, D.C.

I am legislative counsel for the Far East Group, an organization composed entirely of American citizens, all of whom were American citizens at the time of the war loss and who are now resident in practically every State of the Union, all of whom sustained losses during World War II as a result of enemy action in the Pacific area, outside of Japan proper.

Practically every American claimant in this category is a member of this organization. Some Americans having claims as a result of enemy action in the European area are also members of this organization.

All of the officers, directors, and the counsel for this organization serve without compensation of any kind.

I have more than a professional interest in this matter. I lived and practiced law in the Orient for many years prior to the war, and I have sustained personal war losses. I have personal knowledge of the circumstances in connection with the losses of many American individuals, business firms, charitable organizations, and missionary groups who, for many years, exerted noteworthy efforts to foster and promote free and competitive enterprise and the democratic way of life in those foreign lands.

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From 1950 through 1953, I was a Commissioner of the U.S. War Claims Commission, the predecessor of the Foreign Claims Settlement Commission.

In the interests of shortening these hearings and of expediting the hoped for legislation on this subject so that a quick measure of relief can be brought to these American claimants, many of whom are now old and ill, and who lost all of their worldly goods and their health at the hands of the aggressors, we have no comprehensive, formal, prepared statement to submit to the subcommittee at this time.

Over a period of years we have appeared at the hearings held by this subcommittee and have given oral statements and have submitted comprehensive written statements, which are in the subcommittee's files and to which reference may be had.

We believe that the views of these American claimants are fully known to the subcommittee, and we believe that all that could possibly be said on this subject has long ago been said, not once, but many times, and we are confident that the subcommittee is fully informed on all aspects of the matter.

In short, these American claimants approve of, support, and urge the speedy enactment of H.R. 7283, which is the bill which was introduced by the chairman, this is the bill, which passed the House in the last session, and we hope and expect that it will again be passed by the House this year.

The plight of some of the American claimants is such that any delay increases the hardships which, over a period of years, have become almost unbearable.

We suggest, however, that section 206(b) of H.R. 7283, be deleted. This is the section which provides that there shall be deducted from awards in excess of $10,000 to corporations an amount equal to any tax benefit the corporation may have received in prior years by reason of deductions claimed for war losses.

Without going into detail, we think that the structure of the American tax laws is such that the proposed section would probably create more inequities than it is designed to correct.

Although the administration's bill, H.R. 7479, and the chairman's bill, H.R. 7283, are in respect of the treatment of war claims, very much alike, we prefer the chairman's bill for a number of reasons, one of them being our objection to the proposed diminution of the war claims fund by subsection (e) of section 202 of the administration bill.

This subsection would provide compensation for losses resulting from the removal of industrial or capital equipment in Germany for reparation purposes, owned by Americans at the date of taking. This subsection is apparently designed to provide compensation to Americans whose property in Germany was taken by the Russians after the war by way of Russian reparations against Germany.

Without going into the merits of these claims, and they are unquestionably meritorious, they are clearly not war claims against the former enemies, and they should not be paid out of the war claims fund, for to do so would diminish the already insufficient amount available for payment of war-loss claimants.

That they are not war claims is clearly demonstrated by reference to the generally approved definition of a war claim as given in the administration's own bill; namely, one which occurred as a result of

military action, or as a result of special measures directed against the property because of the enemy or alleged enemy character of the owner.

The reparation removals by the Russians were not a result of enemy action, nor were the American owners at that time the enemy of the Russians who removed the property.

These meritorious claims should be handled in some other way and paid out of some other fund.

We respectfully urge the speedy enactment of H.R. 7283.

Thank you, Mr. Chairman.

Mr. MACK. Are there any questions?

Thank you very much.

Mr. H. Clay Johnson, executive vice president, Royal-Globe Insurance Cos.

STATEMENT OF H. CLAY JOHNSON, EXECUTIVE VICE PRESIDENT, ROYAL-GLOBE INSURANCE COS. OF NEW YORK CITY, WASHINGTON, D.C.

Mr. JOHNSON. Mr. Chairman, my name is H. Clay Johnson. I am executive vice president of the Royal-Globe Insurance Cos. of New York City, 150 William Street, New York, N.Y.

I did not appear before this committee last year, Mr. Chairman.

The problem to which I am referring was covered by Mr. Houston's prepared statement submitted to this committee last year to which he adverted in his testimony yesterday, as I understand it, but no witnesses appeared before you in reference to this problem, as such.

I will make my statement very brief in accordance with your request. I have but a short statement to make before the committee at this time, and I should be happy to answer any questions that members of the committee might have about our position.

There are four companies in the Royal Globe group here involved. The American & Foreign, Federal Union, and Queen Insurance companies were incorporated in the State of New York between 1891 and 1911.

The Newark Fire Insurance Co., the fourth company in our group, was incorporated in the State of New Jersey in 1811, over 150 years ago.

The stock of each of these companies is British-owned.

Each of our companies, since its incorporation, has conducted its business in the United States. The main office of each is now in New York City. The employees of each are here.

Although British-owned, our companies are always considered to be American domiciled companies, and they have been members of the American Hull Insurance Syndicate since long before World War II.

As members of the syndicate, our companies wrote their allotted share of war risk insurance on American hulls in World War II, and suffered their proportionate share of the losses. Our entire reserves were wiped out after the disastrous experience of early 1942.

It is clear that our companies were recognized to be American companies and intended to be included in the limited recovery recom-

mended by the special War Claims Commission, which reported in 1953.

We were members of the syndicate, we shared the underwriting losses, and it is obvious that we were not in any way excluded from the recovery recommended by the Commission after its detailed 4-year study of this question.

In nearly every bill on this subject now pending, Congress has accepted the recommendations of the Special War Claims Commission. Claims of members of the syndicate, limited to net losses on war risk insurance on American-owned hulls, are included in both H.R. 7283 and H.R. 7479.

But, unless amended, these bills and others now pending, would exclude our companies under the definition of "National of the United States," found in section 201(c)(3).

I strongly urge this committee, in the interests of fairness, to make the slight language change necessary to prevent our companies' exclusion from provisions for recovery under the War Claims Act.

Our position on the merits is identical to those companies now provided for. Our companies were not excluded from the recommendations made by the Special War Claims Commission. They should not be excluded here.

The result we seek may be achieved by making two relatively minor changes in one subsection of either H.R. 7283 or H.R. 7479. In subsection 202(c) of either bill, insert in the second line after the word "incurred", the phrase "by insurance companies", and after the semicolon at the end of the subsection insert the following provision:

notwithstanding any other provisions of this title the term "insurance companies" as used in this subsection (c) shall include companies incorporated in the United States the principal stock ownership of which is by other insurance companies incorporated outside the United States, but admitted to do business within the United States.

I should like to thank you for having had this opportunity to appear before you.

In closing I should like to direct your attention to that part of the Special War Claims Commission's report where the claims of insurance underwriters are dealt with (H. Doc. No. 67, 83d Cong., 1st sess., pp. 141–142) and to the earlier statements of Mr. Oscar Houston, of New York, in support of the point of view I have expressed here today.

For Mr. Houston's statements see hearings before a subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, on bills to amend the War Claims Act and the Trading With the Enemy Act, 86th Congress, 1st session, 1959, pages 344–356, and hearings before a subcommittee of the Committee on the Judiciary, U.S. Senate, on bills amending the Trading with the Enemy Act and War Claims Act of 1948, 86th Congress, 1st session, 1959, pages 204–211.

Thank you, Mr. Chairman.

Mr. MACK. How much money is involved in this proposal?

Mr. JOHNSON. The estimated total amount of the gross losses of marine underwriters, according to the War Claims Commission study, was $191 million.

Their estimate of the net amount was $16.5 million.

There are eight companies which would be affected by the amendment I am proposing and their share of the $16.5 million would amount to approximately $1.2 million.

Our four companies' part of that would amount to just a little less than $1 million.

Mr. MACK. Your four companies are subsidiaries of the Royal-Globe Insurance Co.?

Mr. JOHNSON. That is correct.

Mr. MACK. Who are the other four? Are they British-owned companies?

Mr. JOHNSON. One of them is quite comparable. That is the Potomac, owned by the General Accident, which is a British company. That is comparable to our situation.

The other one, Seaboard, would have been except that the Seaboard was acquired a couple of years ago by the American Fore Group, which is one of the largest American groups in business. So that Seaboard, for all purposes, is now an American-owned company although under the technical language of the bill it must have been that also at the time the claim arose.

So that it would be barred similarly as we are and under my amendment it would be reinstated as we would be.

A third is quite comparable to us, is owned by the Sun Iinsurance Co.

Another one, the Buffalo, is presently owned by the General Insurance of Trieste, an Italian company admitted to do business in the United States.

At the time these claims arose Buffalo was an American-owned company. It has only subsequently become foreign owned.

Mr. MACK. Would they be included, too, under the provisions of our bill?

Mr. JOHNSON. All of the eight companies, our four plus these other four, I have described, would be excluded under the present language of these two bills.

Mr. MACK. How about Sun Insurance Co. Is that a British firm?

Mr. JOHNSON. Sun Insurance Co., I should have said, is also a British insurance company domiciled in England.

Mr. MACK. Are there any questions?

Mr. CURTIN. I have one question, Mr. Chairman.

Since these companies are all foreign owned, are any of them seeking compensation for these same claims from their home country?

Mr. JOHNSON. According to my best understanding, they are not. There has been no provision for it to date and there is none proposed.

Mr. MACK. Thank you.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. MACK. Mr. George Radin.

STATEMENT OF GEORGE RADIN, REHOBOTH BEACH, DEL.

Mr. RADIN. Mr. Chairman, to begin with, I wish to thank you for the introductory remarks as to the time element when you stated that 15 years have already elapsed for U.S. nationals not having been paid for their losses.

In my case it is more than 20 years.

What I am now concerned about largely is whether or not we are going to be stopped again. Last year this committee reported and the bill was voted almost unanimously, but we were stopped in the other House.

Now, I realize that this committee cannot say what the other committee is going to do, but I would like now to take advantage of answering three questions that I heard in the other committee and repeated by the chairman of that committee as to why these assets should be returned to the German owners.

Mr. MACK. I will interrupt you at that point. We are here to receive information to assist us and for our benefit here in the House of Representatives.

Mr. RADIN. Yes.

Mr. MACK. I notice in your statement you do make reference to one of the U.S. Senators.

Mr. RADIN. That is right.

Mr. MACK. As chairman of this committee, I would prefer for you to delete that section, because I cannot see that it would contribute anything to the purpose of our hearings this morning.

Mr. RADIN. I am perfectly willing that it should be deleted.

Mr. MACK. The information we are interested in receiving this morning is information that will assist us in developing the legislation in the House of Representatives.

Mr. RADIN. Correct.

Now, three observations I would like to make. One was that a very substantial portion of the vested assets here in question were American-owned properties.

For me that was a shocking statement to hear because it was repeated and apparently influenced the presiding officer of the committee.

If this be so, then it would certainly seem that they should not have been blocked in the first instance.

Now, the second observation is that vested properties of Austria, Bulgaria, Hungary, Italy, and Rumania, were returned.

As to this let me first suggest that the United States was not at war with Austria.

Secondly, all of the remaining countries listed entered into peace treaties in which they agreed to compensate war damage claims of U.S. nationalists.

Italy has complied with her treaty obligations.

Bulgaria, Hungary, and Rumania all defaulted, but the Trieste also provided that in such event the United States could size their assets here and utilize them in the settlement of claims.

This has been done pursuant to the terms of Public Law 285 of the 84th Congress.

The third point that seems to have received considerable attention in the other hearing was that self-interest required that the United States would return these vested assets to their former owners.

As to this, it would seem that Congress has been cognizant of this facet and has taken steps to obviate concern relative to foreign investment by U.S. nationalists through the Mutual Security Act provisions for insuring such investment.

That is the statement that I have in addition to what I have already filed.

Mr. MACK. Thank you very much, Mr. Radin.

Your full statement will be received for the record and inserted at this point.

(Statement referred to follows:)

STATEMENT BY GEORGE RADIN

My name is George Radin. I am in favor of the proposed legislation, H.R. 7283. I appear before this subcommittee as a claimant for payment of World War II property losses sustained as a U.S. national, 21½ years ago, resulting from wanton and malicious assaults against my person and my property committed deliberately by Germany's armed forces in Belgrade, Yugoslavia, and their Nazi bosses elsewhere in Europe while publishing in newspapers and over radios under their control that I had perpetrated major damages to Germany's war efforts, operating as a confidant of the White House in Washington. When the Nazis did not succeed in apprehending me, they undertook penalizing measures against my property.

My quest for indemnification for such property losses, valued at $175,000, has been intensely persevered over a period of 20 years already. This does not include the losses I have sustained and continue to suffer because of the Nazi defamations published against my person, some of which now appear in World War II history books.

A similar bill (H.R. 2485, 86th Cong.) to the one now before this subcommittee (H.R. 7283) was passed last year viva voce by the U.S. House of Representatives. Alas, that bill did not come to the Senate floor for consideration in the 86th Congress.

Now we are anew where we have been for some 10 years past with proposed legislation to pay World War II losses like mine. Meanwhile, many Americans who have suffered war losses like myself have died, without ever realizing a cent of indemnity for their property losses. Others will find it to be more and more difficult to prove each item of their losses because of death of witnesses and loss of other needed evidence with which to prove ownership and the value of the lost property. Moreover, each day, year after year, we are being deprived of the one-time German-owned property in this country which could have served years ago already to indemnify us for the loss of our properties.

However, instead of payment to which we have been entitled for some 20 years past already, we go on as beggars—year after year—begging our Government for our own money, which we need badly for the sustenance of our families—at least those of us claimants who are still living.

Yet, for almost a decade already, one authoritarian American goes on asserting that the wartime vested German assets should be returned to their one-time German owners—notwithstanding the fact that the United States could not follow that course without violating international treaties. Moreover, the Paris War Reparations Agreement of January 14, 1946, states that any of the parties to that agreement (wartime Allies) who return German vested assets located on their respective territories to the former German owners would have to pay a similar amount to the other signatories of that agreement as a penalty for the violation of that international agreement, signed in Paris, January 14, 1946.

"Under this agreement the United States and its Allied Nations (excluding Soviet Union and Poland) limited their individual demands against Germany largely to the assets located in their respective countries and to hold or dispose of them in such a way as to preclude their return to German ownership or control. This was in lieu of reparations which the signatory nations did not favor in light of the Allied experience after World War I. This policy of Allied retention of vested assets for war claims was subsequently carried one step further in the Bonn Convention of 1952 between the Federal Republic of Germany and the United States, Britain, and France. In that convention Germany agreed to compensate its own nationals for their loss of property through the vesting action of the Allied Powers. The latter in turn committed themselves to forego any claim for reparation against Germany's current production. These provisions of the Bonn Convention were reaffirmed in the Paris Protocol of 1954, which brought about the sovereignty of the Federal Republic of Germany. The Paris Protocol was approved in the Senate on April 1, 1955, and became effective

on May 5, 1955. The U.S. court of appeals has so spoken. (See *Tag* v. *Rogers*, 267 F. 2d 664, decided May 21, 1959.)"

In view of this state of happenings, I submit that much irreparable loss to American nationals has come about until now because appropriate legislation has not been enacted by Congress for indemnifying U.S. nationals out of vested German assets for World War II losses. The Eisenhower administration asked for such legislation. The present administration is in favor of the proposed legislation—and I beg to ask for the passage of the bill under consideration, H.R. 7283, in the present 1st session of the 87th Congress, so that at least those of us claimants who are still alive may receive indemnity for their World War II property losses.

Mr. MACK. Mr. Hemphill.

Mr. HEMPHILL. You were a citizen of the United States at which time you claimed 21½ years ago you received wanton and malicious assault against your person?

Mr. RADIN. Yes.

Mr. HEMPHILL. You were a citizen of the United States at that time?

Mr. RADIN. I became a citizen in 1921.

Mr. HEMPHILL. What personal injuries did you receive as a result of these wanton and malicious assaults?

Mr. RADIN. As an attorney, I lost certain income, my clients.

Mr. HEMPHILL. It is just money?

Mr. RADIN. Yes.

Mr. HEMPHILL. Thank you.

Mr. MACK. Mr. George McNulty, of the National Savings & Trust Co.?

Mr. Ludwig Eppstein?

STATEMENT OF LUDWIG EPPSTEIN, NEW YORK, N.Y.

Mr. EPPSTEIN. Mr. Chairman and members of the subcommittee, my name is Ludwig Eppstein. I reside at 250 West 103d Street, New York City.

I am owner of certain properties in Germany and I appreciate the opportunity of appearing before you today as a private claimant in order to comment briefly on the two bills now pending before the subcommittee with regard to compensation for war damages.

I came to the United States as a refugee from Hitler Germany in 1939. I became a citizen of this country at the first possible opportunity which was in 1944.

My sister, who is also now an American citizen, came to this country from a concentration camp with the assistance of various American organizations, including the Quakers Society. She is still ailing as a consequence of her stay in the concentration camp.

We were the sole owners of an office building and a large apartment house in Stuttgart. Both of these buildings were bombed during the war and largely destroyed as a result of military action.

My sister and I share a common apartment. We looked forward to the day when legislation would be enacted which would enable us to obtain some compensation for the properties we have lost in Germany.

We, therefore, welcomed the news that bills had been introduced in the American Congress to provide payment for such World War II losses.

I have learned, however, that the two bills which are being considered by this committee would deprive me of any right to submit a claim because I was not an American citizen at the time the properties were destroyed in 1943 or 1944.

I appear before you today because it seems to me that this discrimination is completely unjustified. When I became an American citizen, I was proud to know that I shared all the rights which other American citizens has.

I firmly believed, and still believe, that there are no second-class citizens in the United States. I find it very difficult to understand why I should not be permitted to share the same rights as other American citizens. I have been a faithful taxpayer all the time since I arrived in this country and have understood that the payment of these taxes entitles me to participation in all of the benefits which all of the laws provide.

There are many friends of mine who are in similar circumstances. All of them are grateful to be in the United States, and they contributed whatever they could toward our common war effort against the Nazis. Some of them have fought in the armed services of the United States.

It seems inconceivable to me how the American Government could not tell them that they are not really entitled to the full benefits of citizenship, and that they are not allowed to share with other Americans the rights which the war claims bills may give them.

In trying to find some possible explanation for the reasons which may have prompted the drafters of these bills to exclude persons like myself who became citizens after the property was destroyed, I have tried to figure out how many such cases there might be.

It is hard for me to believe that those who were fortunate enough to become American citizens at an early date, would, in order to increase their own share of payment, try to exclude those who became citizens later.

But it seems to me that even such a consideration would not be valid here. My analysis of the figures indicates that the total number of persons who might be eligible to submit claims and who were not American citizens at the time the loss occurred, would be relatively small.

The Immigration and Naturalization Service has published figures which appeared in a book by Donald Kent, called "The Refugee Intellectual," which show that the total number of immigrants to the United States from Germany between 1933 and 1941 was 104,098.

Knowing that it ordinarily takes 5 years to acquire citizenship, it may reasonably be estimated that about 30,000 of these became American citizens before 1942. Since most of the bomb damage occurred after 1942, those 30,000 who were citizens before then would be eligible under any definition.

This would leave about 75,000 immigrants including men, women, and children, who might have become citizens after the damage occurred. I estimate that this would represent about 25,000 family units.

No one can say with certainty how many of these 25,000 families owned real property in Germany. Even if we assumed that as many

as one out of every five families owned such property, we would still come to a figure of only 5,000 property owners.

Of course, not all of the properties in Germany were destroyed. Those in the small villages and towns were left almost untouched.

We can, therefore, reasonably conclude that no more than perhaps 1,000 persons who were not citizens at the time of loss would be eligible to submit claims for bomb damage in Germany.

The German Institute for Economic Research—Deutsches Institut fuer Wirtschaftsforschung—in Berlin, has issued statistics in special publication No. 41, page 13, which clearly show that only 18 percent of the property values owned were destroyed.

It should seem fairly clear, therefore, that in terms of dollars and cents the total cost of admitting these new Americans as claimants would not be excessively high.

Surely, it would not seem worthwhile for the American Government to abandon its principles of treating all citizens alike in order to give one group the insignificant benefit they might derive by excluding another small group.

I am grateful to the members of the subcommittee for permitting me to come before you today, for I sincerely believe that you will do what is in the best interest of our country and all of our citizens.

I hope that this information will be of some value to you in your deliberations, and I am confident that before any bill is enacted into law, you will find the appropriate language to provide justice for all.

Before concluding, I would like to request that you include in your printed record some statements which were made in the hearings held before this subcommittee in 1959. I found these statements to be particularly appropriate and I am, therefore, attaching them to my statement today with the request that they be published again.

Thank you.

Mr. MACK. Very well.

(The documents referred to follow:)

GARFIELD, SALOMON & MAINZER,
ATTORNEYS AND COUNSELORS AT LAW,
New York, N.Y., June 22, 1959.

Subject: H.R. 2485.

CHAIRMAN,
Subcommittee on Commerce and Finance of Committee on Interstate and Foreign Commerce, House of Representatives, U.S. Congress, Washington, D.C.

DEAR SIR: On behalf of our clients we would like to submit some obvious objections to section 206 of H.R. 2485.

To restrict war damage claims, as the bill does, merely to persons who were American citizens "on the date of the loss, damage, destruction, or removal and continuously thereafter until the date of filing claim with the Commission" is bound to lead to inequities as the following exemplifies:

A member of our law firm was a refugee from Germany. He was drafted into the U.S. Army in 1941 and naturalized an American citizen in 1942. Some property of his was destroyed during the war in Germany in 1941, other property in 1943. He would receive compensation under H.R. 2485 only for the latter loss. His wife became a U.S. citizen in the beginning of 1945. Her property in Germany was destroyed by war in 1944. She would not get any compensation under H.R. 2485. His now deceased mother became a U.S. citizen also in the beginning of 1945. Her property in Germany was destroyed in 1944. At the time of destruction by war in 1944 it had been confiscated by the Nazi government. The ruins were restituted in 1948 to the son, a U.S. citizen since 1942, because the mother was dead at the time of restitution. Under H.R. 2485 the son could not make a claim.

Such inequities certainly cannot be defended. There is sufficient historical evidence that the United States has requested compensation from foreign states also for permanent residents in this country who were not yet citizens or has made provision for compensating them from foreign funds here.

In this connection it is interesting to note that paragraph 5(I) of the 11th implementing order of December 18, 1956 (BGB–1, I, 932, 1388) to the equalization of burdens law (Lastenausgleichgesetz—LAG) of the Federal Republic of Germany, which is to be compared with our War Claims Act, provides that not only persons who were German citizens at the time of the damage get compensation but also "ethnic Germans." Thus, also the German Federal Republic disregards the nationality principle in the case of war damage compensation.

We feel that section 206 of H.R. 2485 should be amended to the effect that all U.S. citizens who became American nationals prior to October 19, 1951, when by joint resolution of the Congress the state of war with Germany was declared ended, should be entitled to make war damage claims. Failing this, we submit that lines 1 and 2 of page 10 of H.R. 2485 should be amended to read: "claim with the Commission pursuant to this title, nationals *or permanent residents* of the United States, including any person who having lost * * *."

May we ask you to submit this letter also to the members of your committee for consideration and to have it included in the committee's record.

With great appreciation of your kindness and courtesy,

Respectfully yours,

FREDERICK WALLACH.

NUMISMATIC FINE ARTS,
Berkeley, Calif., July 21, 1959.

Re H.R. 2485.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House Office Building, Washington, D.C.

MY DEAR MR. HARRIS: This legislation, intended to indemnify American citizens for war damages, is of great interest to me, and I would like to comment on it. Before doing so, a few personal remarks.

Born in Hamburg, Germany, in 1887, I was in the export business for 7 years. In 1909 I went into the banking business in Berlin, and stayed there until my emigration to the United States in 1937. Up to the First World War, I was representative for all of Europe of the New York brokerage firm of Newborg & Co. For 2 years during the war I was in the German Army, but due to impaired hearing my service was limited to office work. Here I was called to study problems in connection with war loans, for which I received a decoration. After the war I was president (one of four) of the Deutsche Laenderbank—house bank of the I. G. Farben concern—and after 7 years I reopened my own banking firm. During all those years I belonged to the board as president or member, of various German and Swiss insurance companies. At the height of the depression the Deutsche Reichsbank appointed my firm, as the only new one, to deal in first bank acceptances, which meant that the Reichsbank accepted my signature as an equal to those of the leading banks.

Having lived through the First World War, I learned of the vicissitudes in life, and as some kind of protection I chose as permanent investment in 1918 the house Bismarckstrasse 78 in Berlin-Charlottenburg, in which I had occupied an apartment for almost 20 years.

With the advent of the Nazis a change became imminent. I closed my business in 1936; then I traveled extensively, and eventually decided to immigrate into the United States. I arrived with my wife and child in New York in January 1938. I had lost practically everything, and after some futile tries as broker and salesman, I decided to make a profession out of my former hobby. With financial backing of a friend of mine I founded the Numismatic Fine Arts, a firm devoted entirely to dealing in archeological art objects and classical coins. After 20 years of hard work, I believe, I established my reputation; as the Smithsonian Institution and Dumbarton Oaks (Harvard University) in Washington, the American Numismatic Society in New York, or the Museum of the Legion of Honor in San Francisco, could confirm. My American colleagues elected me vice president in the International Association of Professional Numismatists, which is our head organization throughout the world, as its name implies.

At my emigration in November 1937 I was forced to sell my house Bismarckstrasse 78, Berlin-Charlottenburg. I feel a few data concerning it are essential. It was built in 1906. Its location was the best possible. It was a cornerhouse belonging to the block: Bismarckstrasse, Wilmersdorfer Strasse, Goethestrasse and Reuckerstrasse. The Bismarckstrasse was the main artery east and west; Wilmersdorfer Strasse was the main artery north and south.

My actual purchase price, more than 40 years ago, was 200,000 marks. In the early thirties when, due to the depression, real estate prices were at their lowest, I was offered 200,000 marks. I refused. Some time later I was approached again; this time no price was mentioned, but it was simply suggested: Write your own ticket. I refused again, since I considered the house as a permanent investment which should take care of my old age and of my family.

In 1954 I started my restitution claims. A long-drawn-out law suit ensued; in 1958 the house was restituted to me, and final details were settled in court only in June of this year.

But * * * in January 1944 the house was bombed out, and almost entirely destroyed. The accompanying photostatic copy made from a drawing of an expert, appointed by court in the aforementioned law suit, shows the extent of the bombing. Two small makeshift stores is all that is left. I was in Berlin last year, and saw the ruin. I talked with my lawyer and my house agent, and their estimate of what could be salvaged out of it was about 2 to 3 percent of my original investment.

With this in mind, my interest in the pending bill will be understandable. Apart from my original investment I had reinvested for years most of the incoming proceeds in ameliorations to keep the house in the most perfect state. A compensation for all that by the proposed legislation would be highly desirable, since at my age of 72 I will not be able to make good this great loss.

I realize that all this is entirely personal, but I am sure that many thousands of other American citizens are in a similar situation. Much real estate and other kind of property has been destroyed during the war, for which no other way of indemnification is forthcoming. May I insert here one observation concerning this legislation which would be important for many of us: Such law would, of course, be applied to American citizens only. Speaking of myself; I immigrated in January 1938, I applied immediately for my first papers which I received a few months later; the house was bombed out in January 1944; in November 1944 I received my citizen's papers. It would be essential that, legally, the possession of first papers would be considered sufficient to establish the right of a citizen.

The enactment of such legislation seems to me to be of fullest justification and great importance. Our Government has spent billions of dollars in foreign aid. Great parts of Europe have been rebuilt with our help, and these countries enjoy great prosperity. New modern houses and factories were erected in many foreign countries with American money, now owned by German, French, Italian, etc. citizens. Should not a small percentage of such foreign aid be set aside for the benefit of American citizens who have suffered the same kind of losses, and who were forgotten up to now entirely?

Respectfully yours,

EDWARD GANS.

Mr. MACK. Are there any questions?

Mr. HEMPHILL. I notice on page 2 of your statement you say that you firmly believe that there are no second-class American citizens, and yet you cry discrimination.

Now, it occurs to me that anybody who comes to this country and who has contributed nothing to the greatness of this country before he came, should be eternally grateful for the freedom that we have.

I personally resent the fact that people come to this country, we take them in and give them the freedom and all that we have in this country, and then they cry discrimination and say that we discriminate against them.

Nobody is discriminating against you or anybody else.

I am proud to be an American. I hope you are.

Mr. EPPSTEIN. I am proud to be an American. I said so in my statement.

Mr. HEMPHILL. You are crying discrimination and that we are doing injustice to the freedom you enjoy because we took you in here.

It is a terrible injustice and I resent it.

Mr. EPPSTEIN. I have no intention to do any injustice. I appreciate very much to be in the United States.

Mr. HEMPHILL. Think of all the people who have died to make this country free so that you could come here. Just think of them for 1 minute. I am eternally grateful to them and I hope you are.

Mr. EPPSTEIN. I am.

Mr. MACK. Are there any questions?

Thank you kindly for your testimony, sir.

Mr. Isadore G. Alk.

STATEMENT OF ISADORE G. ALK, WASHINGTON, D.C.

Mr. ALK. My name is Isadore G. Alk. I am engaged in the private practice of law in Washington, D.C., and I am appearing on behalf of a number of non-German clients whose property was seized by the Alien Property Custodian on the ground that they were German tainted.

We do not oppose the objectives of H.R. 7283 and H.R. 7479.

However, I appear in opposition to section 5 of H.R. 7283 and section 4 of H.R. 7479, as presently drafted.

Both of these sections would amend section 39 of the Trading with the Enemy Act, by providing for the transfer to the war claims fund, to be used in paying claims for private American war losses, all funds arising from property vested by the Alien Property Custodian.

It would result in the outright confiscation of the property of persons, like my clients, who are not German citizens or subjects, but whose property nevertheless was seized by the Custodian under the American wartime doctrine of German taint and German nationality.

An example of the type of case which I refer to is that of a 70-year-old woman, a Dutch citizen continuously since birth, who was residing in Germany during the war. She never acted as an agent of the German Government; she was never engaged in business in Germany; and she was living in Germany only because of the health of her sister.

Because of a lung condition, residence in a high altitude became necessary.

Her property was seized by the Alien Property Custodian and was not returned because of her residence in Germany. Under the provisions of H.R. 7283 and H.R. 7479, her property will be utilized to pay American private claimants and she will receive no compensation whatsoever. This is confiscation, pure and simple.

In the case of German citizens or German subjects, the action proposed to be taken under H.R. 7283 and H.R. 7479 has been said to be justified by reason of the provisions of the so-called Bonn Convention on the settlement of matters arising out of the war and occupation, signed at Paris on October 23, 1954.

The Federal Republic of Germany, by this convention, has agreed to insure that the former owners of German external assets which had been seized by any of the allied powers should be compensated.

But, as I read the Bonn Convention and the Control Council laws to which it refers, the obligation of the Federal Republic of Germany only extends to German citizens or subjects. The Federal Republic

of Germany has assumed no responsibility to insure that compensation shall be paid to non-Germans whose property has been vested by the United States Alien Property Custodian under the American wartime concept of German taint or German national.

The property of these non-Germans does not constitute German external assets for which the Federal Republic of Germany must arrange for compensation to be paid.

I, therefore, emphasize, if section 39 of the Trading With the Enemy Act is amended, as proposed in H.R. 7283 and H.R. 7479, the United States, for the first time in its history, will formally have approved a program of plain and clear confiscation.

If the committee should decide to report out favorably H.R. 7283 and H.R. 7479, I urge that a proviso be added to the proposed amendment to section 39 which would make clear that the Attorney General should not cover into the Treasury for deposit in the war claims fund, the sums arising from vestings of property which do not fall within the category of German or Japanese external assets. This might be done by a proviso along the following lines:

Provided, That the funds covered into the Treasury by the Attorney General for deposit in the war claims fund shall not include any sums arising from property owned by persons who, at no time, subsequent to December 7, 1941, were citizens or subjects of Germany or Japan.

In conclusion, may I express the hope that this committee will favorably consider legislation which will authorize the return of vested properties at least to that category of persons who are not covered by the provisions of the Bonn Convention, and are not affected by the peace treaty with Japan.

I do not believe that this subject was discussed at the other hearing.

I shall be very happy to answer any questions which the members of the committee might have.

Mr. MACK. I think you are correct, that this was not brought up in the course of the last hearings.

I appreciate having that called to the attention of the committee.

Are there any questions?

Mr. GLENN. Sir, what was the property of this Dutch citizen and where was it located when it was confiscated?

Mr. ALK. It consisted of securities which were located in the United States.

Mr. GLENN. It belonged to a citizen of the Netherlands?

Mr. ALK. Yes, but she was living in Germany with her sister. After the war when she lost all of her property here and elsewhere, she was repatriated to the Netherlands. She filed a claim with the Office of Alien Property for return of her property and the Office of Alien Property summarily dismissed the claim because of the fact she had been living in Germany during the war.

Mr. GLENN. I was wondering how this was brought out that she had been living in Germany. Was an investigation made?

I would assume, if she made a claim, she would just say she was a citizen of the Netherlands, her property was in this country.

Under what authority was it seized?

Mr. ALK. It was seized upon the basis that the United States, during the time of war, was going to treat as an enemy of this country any person who was residing in an enemy country.

Now, the banks of the United States—she had her securities on deposit with the banks of this country—the banks of this country under the regulations of the U.S. Treasury were required to submit reports showing what property of foreign nationalists they were holding and what was the address which was reported.

Now, the property was, therefore, reported as being owned by a woman who was living in Germany.

Then, after the war, she filed her claim, brought forth all of these facts, but the Custodian said because you were living in Germany you are not entitled to the return of your property.

If the bill is passed in this form, it will mean the complete confiscation of the property and she will never be compensated by anyone.

Mr. GLENN. Thank you very much.

That is all, Mr. Chairman.

Mr. MACK. Thank you very much, Mr. Alk.

Mr. ALK. Thank you, Mr. Chairman.

Mr. MACK. Mr. Daniel Singer, American Jewish Congress.

STATEMENT OF DANIEL SINGER, AMERICAN JEWISH CONGRESS, WASHINGTON, D.C.

Mr. SINGER. Mr. Chairman, members of the subcommittee, my name is Daniel Singer. I am an attorney in Washington associated with the firm of Strasser, Spiegelberg, Fried, Frank & Kampelman.

I am appearing here this morning on behalf of the American Jewish Congress to submit a statement suggesting that the provisions of the bills before the committee this morning, dealing with continuity of citizenship and ownership be amended to take account of those persons who had property in Germany while they were citizens who were expelled under various devices from Germany and lost their property at a time when they were not citizens and subsequently became citizens of this country.

I think the committee is fully familiar with this issue and with the position of the American Jewish Congress on this issue.

In view of the chairman's remarks at the opening of the hearing with respect to conservation of time, I merely suggest that the statement be incorporated in the record at this point.

I will answer any questions the committee may have with respect to our position.

Mr. MACK. Are there any questions?

Thank you very much for your appearance this morning, Mr. Singer, and for the brevity of your statement.

Mr. SINGER. Thank you, Mr. Chairman.

(Mr. Singer's prepared statement follows:)

STATEMENT OF THE AMERICAN JEWISH CONGRESS ON PROPOSALS TO MAKE COMPENSATION FOR LOSSES RESULTING FROM WORLD WAR II, SUBMITTED BY DANIEL M. SINGER, WASHINGTON REPRESENTATIVE

The American Jewish Congress is a national organization of American Jews committed since its inception to the advancement of democratic ideals and the elimination of all forms of political, economic, and social discrimination.

While we therefore welcome present proposals to compensate Americans for war losses, we are naturally interested in preventing incorporation of provisions which might unjustly deprive some selected groups of Americans from access to its benefits. Many years already have elapsed since the end of World

War II and payment for war losses of the kind now being contemplated has already been too long deferred. It would be deplorable if damage done by delay were now compounded by damage done by restrictive definitions of eligibility.

Both H.R. 7479 and H.R. 7283, the major proposals now before this committee, would deny eligibility to claimants who acquired American citizenship after the date of property loss. It is our view that a provision respecting eligibility which would extend the benefits of the law at least to all persons who are citizens at the date of enactment of the bill would be infinitely more just and appropriate and prevent the gross inequities inevitable under the present proposals.

In approaching this legislation, we believe the following factors must be acknowledged. The moneys to be employed in the satisfaction of these claims will come from the Treasury of the United States and not that of a foreign power. Such claims are domestic and not international in character, and the principles governing the adjudication of international claims need not be observed by the Congress in establishing the eligibility of claims or claimants. The Congress therefore has plenary authority to legislation in this field and the only limitation upon this power is that derived from a self-imposed obligation to be fair.

The requirement of citizenship as of the time of loss, included in the pending bills, apparently derives from the principles applied in the matter of a claim by a private person against a foreign government. It is established that an individual may not prosecute a claim against a foreign state. He must therefore, turn to his own government to espouse his cause. This is made possible by invoking the legal fiction that an injury to a private person is deemed to be an injury to the state of which he is a citizen; and the state is thereby endowed with the right to prosecute the claim in his behalf. Conversely (in such international claims, i.e., claims against foreign governments), the rule has also evolved that a state will not proceed unless the person whom it represents was a citizen at the time of loss. Obviously, if the claimant was not a citizen at the time of loss, the underlying theory that his state had been injured can have no validity.

This rule of practice, however, has no application or relevance to the matters before this committee. The claims made cognizable and compensable under H.R. 7479 and H.R. 7283 are not claims against a foreign government; they are domestic claims. The former enemy assets which were vested in lieu of reparations, and to a large part liquidated, are by international agreement and German consent, as well as by congressional directive, property belonging to the United States. As such, these funds are not distinguishable from any other funds reposing in the U.S. Treasury. And there is therefore no principle of law which inhibits the Congress from making payments for such domestic claims to persons who were not citizens on the date the property loss occurred.

We would respectfully note that an analogous position has been adopted in the legislation of other governments. Thus, on September 28, 1949, Great Britain entered into an agreement with Czechoslovakia pursuant to which Czechoslovakia paid Great Britain 8 million pounds sterling "in final settlement * * * of claims with respect to British property, rights, and interests affected by various Czechoslovak measures of nationalization * * *." Article 1 of the agreement defined "British property" as property owned by British nationals on the date of the agreement and "at the date of the relevant Czechoslovak measures" (in other words, at the date of loss). Despite this clear-cut provision in the agreement, the foreign compensation bill of 1950, enacted by the British Parliament and the order in council promulgated pursuant to that bill provided that persons who were British citizens either on the date of the official decree of confiscation, the date of the physical dispossession, or on the date of the agreement, were eligible to participate in the fund.

Referring to the disparity between the provisions in the foreign compensation bill of 1950 and the agreement with Czechoslovakia, the Secretary of State for Foreign Affairs reported to Parliament as follows: "These provisions follow in general those of the agreements (the plural was used because the reference is to an agreement with Yugoslavia as well), but it is not practicable to follow the agreements entirely because they were drafted for the purpose of application as municipal legislation." In other words, in settling the nationalization claims with Czechoslovakia, Great Britain could assert the claims only of its citizens at the time of loss, but in distributing the bulk amount under its domestic law, it felt free to distribute the money as it chose, and, finding it equitable to do so, made the fund available to persons who were citizens at the time of

agreement—a much later date than the date of the loss. The bills here under consideration are much simpler than the English legislation just discussed in that they are in no way implicated in any international undertakings. A fortiori, the Congress is free in its discretion to compensate those who are citizens at the time of the enactment of the legislation.

Analogous precedent in our own law is to be found in Public Law 671 amending section 32 of the Trading With the Enemy Act which recognizes the moral propriety of treating alike all victims of the Nazi regime, including those who have not yet acquired U.S. citizenship. Many Members of the Senate have already recognized the feasibility and desirability of proceeding along these lines in the present case and thus S. 956, now before the Senate, would provide for identical compensation for war claims to all citizens regardless of the date citizenship was acquired. Moreover, it is well-established policy, frequently enunciated by distinguished Members of the Congress, that we should at no time permit the introduction of castes or categories into American citizenship. The fact of citizenship, it is maintained, should alone qualify all Americans alike for whatever advantages may thereby accrue. It is this principle which we seek to protect and implement.

We urge that this committee adopt a rule of eligibility which will extend the benefits of this legislation at least to all persons who were citizens of the United States at the time of the enactment of the bill. By adopting this recommendation, the Congress would be honoring the claims of persons who in many cases had contributed to the success of the war effort, whose sons had served in the Armed Forces of this country and who, by virtue of having relinquished their former citizenship, now have recourse to no government other than the United States for representation or compensation.

It is important to bear in mind that some of the persons whom these bills would exclude are persons to whom the United States offered haven when they were fleeing from persecution by Nazi Germany and her allies. The moral claim of persons in this category was recognized by the Allied Powers, including the United States, when they insisted that persons who were treated as enemy nationals by the enemy should be assimilated to that of United Nations nationals and, as such, should be entitled to recover for the war losses sustained in countries where persecution was practiced. Thus, the United States helped in exacting provisions from Hungary, Rumania, and Italy that all such persons who sustained war losses in those countries would be given rights identical to those enjoyed by American citizens under the treaties. It would be strange if the United States were not as solicitous of these rights in its own enactments as it was in the postwar treaties which it negotiated.

Finally, we note that the bills here under consideration contemplate payments to legal entities even if as little as 25 percent of their shares were held by persons who could qualify as claimants in their own right as natural persons. Thus, it is possible that payments might be made to the residual owners (who, as corporate shareholders, would, nevertheless, indirectly obtain the benefits of compensation), even though they amounted in some cases to 75 percent of the owners of such entities, and even though, in fact, they may never have been residents of the United States or even though they may include open and avowed enemies of this country.

And all this would be possible while persons who have been demonstrably integrated into American life and who have contributed to the success of the American war effort would remain disqualified from any measure of recovery. It is not conceivable that Congress would dignify this bit of irony by embodying it into law.

It should be noted, moreover, that H.R. 7479 contains an additional restriction which appears to go even further than requiring continuous American citizenship. Section 204 of the bill declares that no claim shall be allowed, "unless the property upon which it is based was owned by a national or nationals of the United States on the date of loss, damage, destruction, or removal and continuously thereafter until the date of filing claim with the Commission * * *." The requirement of not merely continuous U.S. nationality but also continuous ownership of the property by a U.S. national would destroy the rights of all those who had sold their property after the damage had been sustained. Thus, an American who retained his ownership of the bombed-out ruin of a house or factory would, under H.R. 7479, be entitled to compensation for the bomb damage, but another American who sold the ruin to a local resident abroad, in

order that it might be rebuilt as part of Europe's reconstruction, would now be denied his claim for the bomb damages.

This novel and to us inexplicable requirement of continuous ownership until the date of filing could not have been anticipated by the owners of war-damaged property. In some cases it is possible that, had it been anticipated, such a limitation might have prevented the sale. It is hard to understand, however, just what would have been thus accomplished. It would amount to giving a premium to those who permitted their property to remain in a decrepit, uneconomic, and unproductive state, while penalizing those who sought to restore their property as soon as possible to more efficient uses. This requirement is unfair in that it could not reasonably have been expected. It is incredibly unwise in that its major consequence would have been to impede the rehabilitation of war-blighted areas of Europe. It is not possible that the Congress could rightly have wished this result. Finally, the only practical effect of the enactment of this provision now would be to reduce the number of eligible claimants as to divest this legislation of any real meaning. With such a provision the war damage bills would be more an illusion of help than an offer of help.

The need for this legislation is urgent. It is to be hoped that the essential justice intended by these bills will not be defeated by an unreasonable and untenable system of classification of American citizens based upon the chronology of naturalization. This extraneous face can have no bearing upon their standing or merit as claimants of property damaged during the war. It is our hope and expectation that a war damage bill will soon be enacted and that its essential purposes will be fully realized by permitting all our citizens equal access to its benefits.

Mr. MACK. Mr. Harold Leventhal.

STATEMENT OF HAROLD LEVENTHAL, ATTORNEY AT LAW, WASHINGTON, D.C.

Mr. LEVENTHAL. Mr. Chairman, may I also request that the statement be included as part of the record? I will condense my remarks accordingly.

Mr. MACK. Without objection, your entire statement will be included in the record at this point.

(The statement referred to follows:)

STATEMENT OF HAROLD LEVENTHAL

My name is Harold Leventhal. I am a lawyer, a partner in the firm of Ginsburg, Leventhal & Brown, of 1632 K Street NW., Washington, D.C.

I appear today in behalf of eight American motion picture companies[1] who suffered loss arising out of special measures of the Japanese based on their enemy character—in the destruction through public exhibition of the motion pictures held in their inventories in the Philippines on December 7, 1941.

The details of these claims were set forth in my testimony before the Subcommittee on Commerce and Finance on June 30, 1959.

It is sufficient to say that the Japanese authorities, as a result of special measures based on the enemy character of these American companies appropriated their inventories in the Philippines and by public exhibition used up those inventories.

In the case of Filipino and nonenemy producers, the Japanese provided compensation.

In the case of the American companies, the Japanese kept track of the moneys that were properly due, but impounded the funds.

Motion picture companies, like other Americans, are entitled to compensation for appropriation of their real inventories. But motion pictures are a unique kind of property and require special provision.

As Mr. Eric Johnston (president of Motion Pictures Associated) has pointed out, the films in the Philippines at the outbreak of war represented a prewar

[1] Columbia Pictures Corp.; RKO General, Inc.; Metro-Goldwyn-Mayer International Corp.; 20th Century-Fox Corp.; Warner Bros.; Paramount International Films, Inc.; United Artists Corp.; Universal Pictures.

investment, in labor and materials, in all the ingenuity and effort that gave value to exhibition rights.

Generally, inventories are realized on in this business by authorizing exhibition in the theaters, with the theaterowners making payments for the use of the film.

At one and the same time the Japanese used up the exhibition value of the American film inventories and realized on that value by obtaining customary payments from the theater owners. They used up by the business properties of the American companies.

In the case of the Philippine Islands, Congress has provided for damage to or appropriation of tangible property in the Philippines Rehabilitation Act passed April 30, 1946. It provided for recovery of the cost of replacing tangible property that was destroyed or damaged.

Congress also provided for appropriation of bank accounts and other credits—pure intangibles (sec. 17 of War Claims Act).

But Congress has not made provision for motion pictures which really fall in between tangibles and intangibles.

A film which has been exhibited has lost its real value although physically a replacement print is made available. The cost of replacing a movie print from a master negative is negligible—both in comparison with the investment required to produce a film, i.e., producing the original negative, and in comparison with the real value of the film, i.e., the exhibiton value.

At the time of my appearance before your committee in 1959, I suggested that the claims be handled by an amendment to section 17 of the War Claims Act as amended, since in that statute Congress had established the principle of compensation of appropriation of intangible properties in the case of the Philippines where American companies were engaged in business under the American flag. This was the approach of H.R. 11572, 86th Congress (Mr. Hemphill).

Subsequent to my presentation to your committee in 1959, I learned of an important precedent in the Italian treaty for damage to intangibles. The precedent is not on all fours since Germany and Italy both prohibited the showing of American movies. However, there was a similar claim in that Italy took over Paramount's right to make a movie out of a story (called "Zaza"), and Italy sold this right.

After the war Paramount got a payment from Italy under the war claims provisions of the treaty of peace with Italy, 1947, based on two-thirds the proceeds realized by the Italian Government.

Article 78 of the Italian Peace Treaty "Property Rights and Interests" (U.S. Cong. Serv. 1947, p. 2321 ff.) contained the following provisions:

(1) Under section 2, the Italian Government agreed to "nullify all measures, including seizures, sequestration or control, taken by it against United Nations property" between June 10, 1940, and 1947.

(2) Under section 4, Italy agreed to pay two-thirds the amount of the loss, where Italy could not restore the property; or where a United Nations national suffered a loss by reason of injury or damage to the property; or where there was "loss or special damage due to special measures applied to their property during the war, and which were not applicable to Italian property."

(3) Section 9(c) provides: "(c)" "Property" means all movable or immovable property, whether tangible or intangible, including industrial, literary, and artistic property, as well as all rights or interests of any kind in property."

In other words, where the intangible property right was taken away or destroyed, and could not be restored, the claim was recognized to the extent of two-thirds the value of the right that was taken.

The American motion picture companies are now asking Congress to provide for their war damage loss on the same principle as that provided in the Italian treaty.

The justice of this claim is underscored, we submit, by the fact that the American companies in the Philippines in 1941 were doing business under the American flag and not in a foreign country.

The claim is for appropriation of business properties.

This is not a claim based on mere loss of profits.

For example, the motion picture companies owned theaters in the Philippines which were used by the Japanese. These theaters made money during the period of their occupation. But no claim is being made or has been made for loss of profits since money was provided to enable these companies to put these theaters in prewar condition, and their capability of business use had not been used up.

However, in the case of the film inventories, the public exhibition caused a loss of property right which could not be restored by making a new master print from the negative. The picture having already been exhibited, the print could not realistically be used again.

It is suggested that the claim of the American motion picture companies be recognized by providing language, which could fit in either bill following the other types of loss or damage for which claims may be filed, authorizing claims based on "Loss or damage arising out of special measures of the Japanese in the Philippines based on the enemy character of the owner, destroying or impairing through public exhibition without compensation the value of motion pictures held in inventories in the Philippines on December 7, 1941, such claims to be recognized only in the amounts actually realized by the Japanese occupation forces or their designees."

This is the same as paragraph (e) which the Senate Judiciary Committee last year recommended be added to the basic claims section of H.R. 2485 after it had passed the House. See Senate Report 1934, 86th Congress, 2d session.

The language recommended by the Senate committee has been tightly drawn so as to guard against wholly conjectural and speculative claims since recovery is based on the amounts actually realized by the Japanese forces or their designees, which kept records and made reports to the Enemy Property Custodian, although compensation was not provided in the case of the American film companies because of their "enemy" character.

The amount of the claims will not exceed $2 million, and in my judgment will probably come to about 60 percent of that figure. When the claim was originally filed by the Ameriacn film companies with the Foreign Claims Settlement Commission (which held the claims incompensable under sec. 17) claims were filed in the amount of $4 million. But the language approved by the Senate Judiciary Committee would require rescaling down of the claims.

Thank you for the opportunity of making this presentation.

Mr. LEVENTHAL. I am a lawyer in private practice here in Washington, appearing in behalf of some motion picture companies who suffered loss arising as a result of special measures of the Japanese in the Philippines, taking by exhibition the motion pictures which they held in their inventories on December 7, 1941.

The details of these claims are set forth in the previous hearings and I shall not repeat them.

I appear today for certain supplementary presentations but just for purposes of understanding that supplementary presentation may I say that the claim is basically that the Japanese authorities appropriated their inventories, the inventories of the American companies in the Philippines, by exhibiting them and depriving them of any remaining value, that the Japanese paid compensation to what they called nonenemy producers, Philippine, Spanish, and other producers.

In the case of the Americans they kept track of the moneys due for the pictures, but did not make any compensation, of course.

We submit basically that the motion picture companies whose assets were taken by the Japanese are entitled to compensation like other American companies, but that motion pictures are a unique kind of asset and require a special provision.

In the case of the Philippines Congress started off by providing compensation when tangible property was taken and provided that the cost of replacing the property could be recovered.

In the case of motion pictures, you can replace the print for very little money, but that does not give you the value of what was taken since it cannot effectively be exhibited.

The reason for my appearance today is this: At the time I appeared before you previously I suggested that amendment be provided along the lines of an amendment to section 17 of the War Claims Act, which provided compensation for the taking of credits and such a proposal

is included by Mr. Hemphill in a bill which he had introduced in the last session.

Subsequent to the time I appeared before you the same matter came up before the Senate in the Senate hearings, and the Senate committee added a provision with respect to the claim which I am appearing before you about as an addition to the bill in the form in which it passed the House, but instead provided that it should be regarded with all the other claims that were now being put through and on the same basis and same limitations as to all these other claims.

One further thing: At the time I appeared before you, I did not have the advantage of knowledge that I now have, that there were provisions for claims, for the taking of artistic property and intangible property, in the treaty that we had with Italy.

Generally speaking, your bills have just provided for damage to tangible property. This is, in effect, a damage to a kind of intangible property.

I have been met with the point that there is no precedence for this and that this would open up a field of some kind.

I find there is precedence for this in the Italian treaty, one of the motion picture companies receiving compensation in the way indicated in the statement, based on the special provisions that were applied to Americans that were not applied to the movie companies.

There is also interests in the amount of these claims. Claims to the same effect were filed before the Foreign Claims Settlement Commission under this section 17 which was held inapplicable by that Commission.

The claims when originally filed were filed in the amount of $4 million.

The language as passed by the Senate is tightly drawn to provide a limit on the amount that can be recovered, based on the actual realization out of these properties by the Japanese.

I think the maximum that would be recovered is $2 million and a fair estimate is that it would be something nearer to 60 percent of that figure.

That is in essence the claim which I am presenting.

I am available for questions, if any.

Mr. MACK. Thank you very much.

Are there any questions?

Mr. CURTIN. I have just one question, Mr. Chairman.

Your claim is for loss of property, isn't it?

Mr. LEVENTHAL. No, Mr. Curtin, I think not. We have stricken out of the claim in the language which was proposed by the Senate subcommittee, those parts of the claim of the moving picture company which were loss of profits.

The motion picture companies had theaters in the Philippines. They made money during the war. They were part of that $4 million. That has been stricken out of this claim.

The claim also strikes out what would be the profits of the distributing companies that the motion picture companies had in the Philippines.

That is, they also took a take of the rentals that were paid by the theater owners, something like 25 percent.

All that remained is the portion which represents what was paid for the actual properties that were used up.

I think the language approved by the Senate committee takes the value of the assets rather than any profits that arose therefrom.

Mr. CURTIN. What assets do you mean, the film itself?

Mr. LEVENTHAL. Well, the asset is an intangible. The exhibition rights of the film——

Mr. CURTIN. Isn't that profit that would be made as a result of the film being exhibited?

Mr. LEVENTHAL. You see, that profit was taken away and could not be used after the war. It is like the case, suppose you had some intangibles that were in the Philippines. The sales price which would be the value of those tangibles in a sense includes some element of profit as well as investment.

But if the matter had not been touched, if the property had not been touched, it would be available for use after the war.

All we are asking for is the amount that would put us in the position where if the properties had not been taken and used up during the war, they could be used after the war.

The fact that the value of the rate is based on the rentals, which is the point that you are making, Mr. Curtin, raises the flavor that this is for profit, but I respectfully submit it is not, it is a way of determining the value of the properties that were used up, the exhibition rates of the inventories.

Mr. CURTIN. Thank you.

That is all, Mr. Chairman.

Mr. MACK. Thank you very much.

Mr. John G. Lexa, secretary, Conference of Americans of Central and Eastern European Descent.

Mr. LEXA. Mr. Chairman, with the permission of the committee, I should like to defer to the president of our conference, the Right Reverend Monsignor John Balkunas, and would hope that the committee would allow me following his statement to take not more than 2 to 3 minutes for a brief supplement in view of the statements Congressman Hemphill made during the interrogation of a previous witness.

May I leave my place to Monsignor Balkunas. Both Monsignor Balkunas and myself have submitted statements.

Mr. MACK. Very well. Monsignor, you may proceed.

STATEMENT OF MSGR. JOHN BALKUNAS, PRESIDENT, CONFERENCE OF AMERICANS OF CENTRAL AND EASTERN EUROPEAN DESCENT, NEW YORK, N.Y.

Monsignor BALKUNAS. Mr. Chairman and members of the committee, my name is Msgr. John Balkunas, president of the Conference of Americans of Central and Eastern European Descent.

First, let me thank you for the opportunity to testify. Members of our conference are a number of organizations of American citizens descending from countries in Central and Eastern Europe between the Baltic Sea and the Black and Adriatic Seas, respectively.

Some of the foremost aims of our organization are to coordinate the efforts of American citizens of Albanian, Bulgarian, Czechoslovak, Estonian, Hungarian, Latvian, Lithuanian, Polish, Rumanian, and Ukrainian descent for the defense of the American way of life against Communist infiltration and subversion, for the liberation of the cap-

tive nations of Central and Eastern Europe, their national self-determination, and the restoration of their national independence.

I had the privilege of appearing before this subcommittee during the 1st session of the 86th Congress, on June 30, 1959, at which time I submitted a statement and testified with reference to H.R. 2485, 86th Congress, 1st session, and related bills (hearing report of the Subcommittee on War Claims and Enemy Property Legislation, pp. 424 through 452.)

In connection with my testimony, I resubmitted the petition of our conference to the Congress of the United States, proposing a policy of full inclusion of naturalized citizens in claim settlements (hearing report, pp. 427 through 443).

It was the conclusion of our petition that no principle of law precluded the equal distribution of claims funds to all persons who were citizens of the United States on the date of the enactment of the statute and that sound policy, as well as traditional ideas of fairplay, require equal treatment of all citizens without regard to the dates when they may have become citizens.

The bills presently under consideration, H.R. 7479 and H.R. 7283, again propose to exclude all persons who are now American citizens, but who had not become American citizens at the time their losses occurred.

I am, therefore, appearing today again in opposition to the eligibility clauses of these bills.

The statement of the secretary of our conference, Mr. John G. Lexa, who is appearing together with me, sets forth in detail some of the most effective arguments in favor of an equal treatment of all U.S. citizens on the date of the enactment of the bill, expressed most authoritatively by the junior Senator from New York, the Honorable Kenneth B. Keating, and others.

Senator Keating has introduced in the Senate a bill dealing with the same mattters, S. 956, which would recognize claims of all citizens on the date of enactment of the bill, provided they—

personally suffered the loss, damage, destruction, or removal for which the claim is filed.

We are in support of this eligibility clause of S. 956 and respectfully suggest it be incorporated in the bills presently under consideration.

May I once again draw attention to the 1953 report of the War Claims Commission of the United States which rejected the requirement of citizenship at the time of loss, sometimes referred to by its proponents as the alleged "principle that the claim must be national in origin," by stating that it:

had no necessary application in the field of domestic war damage legislation and that in this field the Congress had absolute discretion in laying down rules governing the eligibility of claimants.

Once this fundamental principle is established, the exclusion from the benefits of domestic claims legislation of those naturalized citizens who were not citizens as yet at the time of loss, can only be excused with the alleged inadequacy of available funds.

We have previously pointed out that since the excluded citizens have no remedy elsewhere, this is the very essence of unjust discrimination.

I am not a lawyer and would, therefore, appreciate if any questions the members of the committee should wish to ask be directed to

the secretary of our conference, Mr. John G. Lexa, who is appearing with me.

Thank you for this opportunity.

Mr. MACK. Mr. Lexa, it is not your intention to read your entire statement?

Mr. LEXA. No.

Mr. MACK. I want to say also, as I stated earlier in the case of another witness, we are interested in receiving testimony which is helpful to the committee in the consideration of legislation.

If you have something which you would like to discuss with Congressman Hemphill, I would suggest that you make an appointment with him, and not take the time of the committee.

Mr. LEXA. I shall not take more than 2 minutes. It is not really a private discussion with Congress Hemphill I have in mind.

Mr. MACK. I might point out that Congressman Hemphill is not here at the present time and if anyone has anything to say in reply to his statement that that would have been the appropriate time.

STATEMENT OF JOHN G. LEXA, SECRETARY, CONFERENCE OF AMERICANS OF CENTRAL AND EASTERN EUROPEAN DESCENT

Mr. LEXA. I should only like to point out, Mr. Chairman, in view of the fact that we, like some of the previous witnesses, take the position that the exclusion of those American citizens who were not yet citizens at the date of loss is discriminatory in its consequences.

That this position is not an expression of any lack of gratitude for those who become naturalized citizens, and that persons who certainly cannot be charged with lack of gratitude, like, for instance, Senators Keating and Hart, felt that here a serious policy question was involved and that, as a matter of policy, the Congress should exclude the so-called junior citizens as they had once been referred to.

In my statement you will find references to Senator Keatings' and Senator Hart's minority report in the Senate Judiciary Committee.

I shall not read that because it is in my statement.

Mr. MACK. And your statement will be included in the record.

Mr. LEXA. This makes clear that, in the considered opinion of some very respected and respectable citizens of the United States, it is not a matter of lack of gratitude, but a matter of a serious policy dispute and that, in all fairness in this claims legislation, the claims of all citizens on the day of enactment should obtain equal recognition and that, in fact, the exclusion of those who by some historical accident did not become naturalized until after their losses occurred would lead, whether they wanted it to or not, to a sort of second-class citizenship which is abhorrent to American constitutional law and American principles of fair play.

That is all I wanted to add for the record.

Mr. MACK. Thank you very much.

Are there any questions?

Mr. DINGELL. Mr. Lexa, I am very much impressed with your statement which I have read while you have been testifying and while Monsignor Balkunas was making his brief remarks to the committee.

I note in here that there are certain statements with regard to international agreements.

Are you familiar with the statements made with regard to international agreements and the reply memorandum which was submitted to the committee?

Mr. LEXA. Yes.

Mr. DINGELL. You referred to the agreements between the United Kingdom and Yugoslavia on December 23, 1948.

Am I correct in my impression that under that proposal compensation was given to persons who were not at the time of the taking subject to British citizenship, but who previously to signing the agreement achieved that citizenship?

Mr. LEXA. Yes. I recall very well, sir, your discussion with Mr. English during the hearing in 1959, at which time the representative of the State Department made the claim that the British did not recognize claims of those who had not been British subjects on the date of loss.

The fact is that while the British compensation agreements, the international treaties, contained language that would seem to support this contention, in the actual British practice the British authorities did pay claims of all those who had become British subjects by the time the statute in England had been passed on the basis of British Orders-in-Council passed in 1950 which gave the claimant the choice of applying the eligibility status either on the state of loss or on the date of passage of the intra-United Kingdom legislation.

I have a copy of the British Order-in-Council here and shall be glad to introduce it in the record for clarification, if you wish.

Mr. DINGELL. It would be very helpful if we could have it for the record.

(The document referred to follows:)

BRITISH ORDER-IN-COUNCIL, 1950—FOREIGN COMPENSATION (CZECHOSLOVAKIA) ORDER-IN-COUNCIL, 1950, No. 1191

13.—(a) In this Order, the expression "property" means property of any kind, movable or immovable, whether owned or held directly or through a trustee or nominee.

(b) If application under this Order is made by a trustee and by a beneficiary in relation to the same claim, the Commission shall entertain the application made by the trustee in preference to that made by the beneficiary, and, if the claim is established by the trustee to the satisfaction of the Commission, shall dismiss the application made by the beneficiary; but, if the claim is not so established by the trustee because he is not a qualified person under Article 7 of this Order, the Commission may entertain the application made by the beneficiary.

14.—(a) In this Order, the expression "interest in property" means—

(i) in relation to property owned or held by a corporation incorporated under the laws in force in Czechoslovakia, any shares or stock in that corporation (including holdings described under Czechoslovak law as "kuxen"); and

(ii) in relation to property owned or held by a corporation incorporated under the laws in force in any country, other than Czechoslovakia or the United Kingdom or any of the territories mentioned in paragraph (d) of Article 11 of this Order, any shares or stock in that corporation, provided that the Government of the country under the laws of which the corporation was incorporated has, by or in accordance with the provisions of any agreement between that Government and the Government of Czechoslovakia signed before the date of this Order, excluded the interest to which the application relates from compensation paid or to be paid to that Government by the Government of Czechoslovakia in respect of property, rights and interests affected by the relevant Czechoslovak measure or measures.

(b) If any corporation to which the provisions of sub-paragraph (i) or (ii) of paragraph (a) of this Article apply had at the material time an interest in property (within the meaning of paragraph (a) of this Article) that property shall for the purposes of this Order be deemed to be property owned or held by the corporation to the extent of that interest.

15. For the purposes of this Order, the relevant date shall, at the option of the person making the application, be—

(a) the date of entry into force or the date of publication in the Czechoslovak Official Gazette, whichever is the later, of the Czechoslovak or Slovak law or decree by or under which the property or interest in property was affected, or

(b) the date on which the person making the application, or his predecessor in title, was deprived of title to or enjoyment of the property to which his claim relates or, if the claim relates to an interest in property, the date on which the corporation, which owned or held the property, was deprived of title to or enjoyment of that property, or

(c) the twenty-eighth day of September, 1949, if the person making the application, or his predecessor in title, was deprived of the enjoyment of the property to which his claim relates, or, in the case of a claim relating to an interest in property, the corporation, which owned or held the property, was deprived of the enjoyment of that property, as a result of the property being placed under national administration under Czechoslovak Decree No. 5 of 1945 or Slovak Decree No. 50 of 1945.

Mr. DINGELL. I note also in your reply memorandum the agreement between the United Kingdom and Czechoslovakia, September 28, 1949. Was the same practice followed?

Mr. LEXA. The same practice; yes, sir.

Mr. DINGELL. Also, you mention the Swiss-Czechoslovak agreement of December 18, 1946. Was the same practice followed with regard to persons who did not have the nationality of the country at the time of taking, but were residents of Switzerland, but who subsequently achieved that citizenship?

Mr. LEXA. The Swiss-Czechoslovak agreement of 1946 is in a slightly different position there because there is no distinction between those eligible under the treaty and those eligible in actual practice.

It was only that in the reply memorandum of the State Department the statement had been made that the Department had been unable to find that agreement and our reply brief therefore cites the exact citation in the Swiss statutes where it may be found where it was said expressly in article II of that agreement that all claimants would be eligible who were persons of Swiss nationality on the date of the agreement, not on the date of loss.

Mr. DINGELL. You mentioned also the Swiss-Hungarian agreement of July 19, 1950.

In that matter also the agreement provided for covering who achieved citizenship as of date of the agreement; is that correct?

Mr. LEXA. There the situation again is analogous to the French-Polish agreement of 1948 where the agreements required citizenship at the time of loss, but the practice, like the British practice, deviated from it and the French in fact recognized claims of all those who were French citizens on the date of the agreement rather than on the date of loss.

Mr. DINGELL. Thank you very much.

That is all I have, Mr. Chairman.

Mr. MACK. Thank you again for your testimony here today, sir.

Mr. LEXA. Thank you, sir.

(Mr. Lexa's prepared statement follows:)

STATEMENT OF JOHN G. LEXA, SECRETARY, CONFERENCE OF AMERICANS OF CENTRAL AND EASTERN EUROPEAN DESCENT, NEW YORK, N.Y.

Mr. Chairman and members of the committee, my name is John G. Lexa. I am secretary of the Conference of Americans of Central and Eastern European Descent, a nationwide organization of American citizens descending from countries in Central and Eastern Europe, respectively. I am a member of the New York Bar and a lecturer on comparative law at New York University Law School. I am submitting this statement in connection with H.R. 7479, H.R. 7283, and related bills before this subcommittee dealing with American claims against Germany and problems connected with vested German assets.

I had the privilege of appearing before this subcommittee during the first session of the 86th Congress, on June 30, 1959, at which time I submitted a statement and testified with reference to H.R. 2485, 86th Congress, 1st session, and related bills (hearing report of this Subcommittee on War Claims and Enemy Property Legislation, pp. 452–456). My testimony followed that of the president of the Conference of Americans of Central and Eastern European Descent, the Right Reverend Monsignor John Balkunas, who submitted our petition proposing a policy of full inclusion of naturalized citizens in claims settlements and supplementary materials (hearing report, pp. 424–452). Our statements were directed primarily to the question of eligibility of claimants, proposing equal treatment for all U.S. citizens as of the date of enactment of the bill under consideration. Our statements, therefore, were in opposition to H.R. 2485 which restricted the category of individuals eligible under the bill to those who were nationals of the United States at the time their loss had occurred.

The bills presently under consideration, H.R. 7479 and H.R. 7283, contain the same restrictive requirements of citizenship as of the date of loss. I am, therefore, appearing on behalf of the Conference of Americans of Central and Eastern European Descent, in opposition to the eligibility clauses of these bills.

During my testimony (hearing report, pp. 454–455) the terms "Junior Citizens" and "Newly-Made Citizens" were discussed with reference to the eligibility clauses in claims legislation. I am very pleased indeed to note that any idea of a category of "junior" or "second-class citizens" in this regard has been most emphatically rejected by such high authority as Senators Kenneth B. Keating and Philip A. Hart (supplemental and individual views attached to Rept. No. 1934 of the Senate Judiciary Committee on H.R. 2485, Aug. 29, 1960), and I quote:

"* * * Whatever relevance any distinction between citizens based on their date of naturalization may have in international law, any such distinction for purposes of domestic legislation is indefensible and discriminatory * * *. It is abundantly clear that unless the United States makes provision for these new Americans, they will be left remediless for all practical purposes * * *. The inclusion of all Americans regardless of the date of their naturalization is entirely a matter of legislative policy * * *. Certainly these people who are now full-fledged Americans have as much claim to participate in such a program as any other segment of American war claimants * * *. The committee has reported favorably and unanimously another bill S. 531 which proposes to return any vested properties, or their net proceeds, to former owners who were German or Japanese nationals at the time of vesting but who have since become citizens of the United States. In other words, we are proposing to compensate former enemy nationals for losses resulting from the vesting program if they are now citizens. On the other hand, the committee is decreeing that other new citizens shall be denied the right to claim relief because of their former nationality. Such inconsistency cannot possibly be justified. In good conscience we must reject the proposition that American citizenship acquired after one type of war loss will justify a return of property but if acquired after another type of war loss will bar a recovery * * *."

Senator Keating restated his views in this matter in an article entitled "Foreign-Born War Claimants—America's Second-Class Citizens," a reprint of which is attached hereto. The Senator concludes this article in the following words:

"It is abhorrent to our concepts of citizenship to distinguished between Americans on the basis of when they happened to become naturalized. We have never recognized in this country any concept of second-class or junior citizenship. Even European countries which have adopted war claims programs in behalf of

their own nationals have made provision for claimants who become nationals after they suffered their original loss. Certainly we in the United States can do no less."

During his appearance before this subcommittee Mr. Benedict M. English, Assistant Legal Adviser for International Claims, Department of State, submitted a memorandum entitled "The Matter of Nationality With Respect to International Claims" (hearing report, pp. 699–708), which was directed against our petition to the Congress (hearing rept., pp. 427–443). Although the State Department memorandum was most eloquently refuted by the Honorable John D. Dingell of Michigan in his discussion with Mr. English (hearing rept., pp. 709–713), our conference submitted its own reply memorandum, a copy of which is attached hereto. I do not propose to restate its contents here, but I respectfully request that it be included in its entirety in the record as part of my statement.

On February 16, 1961, Senator Kenneth B. Keating introduced in the Senate a bill (S. 956) to amend the War Claims Act. In his remarks on the Senate floor (Congressional Record, 87th Cong., 1st sess., Feb. 16, 1961) the Senator stated:

"One important provision of the bill with respect to eligibility of claimants would make eligible all persons who are citizens of the United States at the time the bill is enacted. I have opposed attempts which were made in the past to exclude from the benefits of war claims legislation Americans who became citizens after their losses were originally suffered. It is obvious that the former countries of these persons, some of which countries have fallen under Communist domination, will not make any compensation to them. In any event, we do not accept any concept of second-class or junior citizenship in the United States. It is very important that we not mar the just and equitable character of war claims legislation by discriminatory provisions against later nationals of our Nation."

The eligibility clause of S. 956 appears in section 206, which provides:

"*No claim shall be allowed under this title unless* (1) *the claimant* and all predecessors in interest in the claim were, on the date of loss, damage, destruction, or removal and continuously thereafter until the date of filing claim with the Commission pursuant to the title, nationals of the United States, including any person, who having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to the date of enactment of this title if such individual, but for such marriage, would have been a national of the United States at all times on and after the date of such loss, damage, destruction, or removal until the filing of his claim; or (2) *in the case of an individual who personally suffered the loss, damage, destruction or removal for which the claim is filed, is a national of the United States on the date of enactment of this title.*" (Emphasis added.)

We most heartily support this eligibility clause of S. 956 and respectfully suggest that it be incorporated into the bills presently under consideration.

May I express my thanks for being provided with the opportunity to submit the above views as well as the hope that they will be given favorable consideration.

[S. Rept. No. 1934, 86th Cong., 2d sess.]

SUPPLEMENTAL VIEWS OF SENATOR KENNETH B. KEATING AND SENATOR PHILIP A. HART

Our objection to H.R. 2485 as reported by the committee is that it does not go far enough in providing relief to Americans who suffered war damage claims more than 14 years ago. The delay in meeting this problem has been intolerable and we are delighted that at long last some measure of recompense is about to be made.

We regret that the generally salutary purpose of this bill is marred by several important defects. Chief among these is the omission of many Americans who have become citizens since World War II from the benefit of its provisions. In addition, we regard the deletion of the provisions of the bill providing for the actual payment of the claims involved to be inexcusable. This can only result in adding several more years to the already long delay in doing justice to these claimants. We also regard it as very unwise to fail to provide at this time for the disposition of vested assets still in Government hands as a result of interminable litigation. Finally, we believe that the bill should include payment for reparations losses sustained by American citizens as a direct result of postwar agreements.

We intend to offer amendments with respect to each of these subjects when the bill is under consideration in the Senate. Needless to say, we are as anxious as anyone to complete action on this legislation now and we shall cooperate in every possible way toward this objective. Congress has been very tardy in fulfilling its responsibilities in this area and another session should not be allowed to expire with this problem still unresolved.

I. BROADENING ELIGIBILITY PROVISIONS

As passed in the House and reported by the committee, H.R. 2485 restricts the category of individuals eligible to receive an award to those who were nationals of the United States at the time their loss or losses were incurred. Whatever relevance any distinction between citizens based on their date of naturalization may have in international law, any such distinction for purposes of domestic legislation is indefensible and discriminatory. We reject any category of junior or second-class citizens and urge that all Americans be treated equitably under this program.

H.R. 2485 covers losses in Albania, Austria, Czechoslovakia, the Free Territory of Danzig, Estonia, Greece, Latvia, Lithuania, Poland, Yugoslavia, and portions of Hungary and Rumania in addition to Germany and areas occupied or attacked by Japan. It is foolish to expect these countries to compensate American citizens for their losses because of their former nationalities. Nor should we even suggest that Americans make claims against those countries in this group which have fallen under Communist control. Any such claims would be ridiculed. It is abundantly clear that unless the United States makes provisions for these new Americans, they will be left remediless for all practical purposes.

H.R. 2485 does not deal with international claims. These are war damage or war loss claims arising, as the bill says, "as a result of military operations." They are not claims by the United States or any of its citizens against the present Governments of Germany or Japan. Hence, there are no grounds whatever for applying the rules of international law governing international claims to the domestic claims program and we know of no constitutional or legal objection to the course we urge. The inclusion of all Americans regardless of the date of their naturalization is entirely a matter of legislative policy.

Following World War II we welcomed thousands of new American citizens to our shores. Large numbers of them suffered indescribable privations during the war. Many were tortured and enslaved and were the victims of every form of persecution. Certainly these people who are now full-fledged Americans have as much claim to participate in such a program as any other segment of American war claimants. While they may have no greater right to compensation, they should not be denied whatever benefits may be derived from enactment of H.R. 2485.

The committee has reported favorably and unanimously another bill S. 531 which proposes to return any vested properties, or their net proceeds, to former owners who were German or Japanese nationals at the time of vesting but who have since become citizens of the United States. In other words we are proposing to compensate former enemy nationals for losses resulting from the vesting program if they are now citizens. On the other hand the committee is decreeing that other new citizens shall be denied the right to claim relief because of their former nationality. Such inconsistency cannot possibly be justified. In good conscience we must reject the proposition that American citizenship acquired after one type of war loss will justify a return of property but if acquired after another type of war loss will bar a recovery.

INDIVIDUAL VIEWS OF SENATOR PHILIP A. HART

As indicated in the foregoing supplemental views, I would broaden the eligibility provisions for claimants so that citizenship now rather than citizenship at the time of loss became the test. But even this would go only part way toward ending the discrimination against those who have been naturalized since the end of World War II, because H.R. 2485 permits claims for property losses only, and no provision is made for claims arising out of loss of liberty.

We have already made compensation to American citizens who were captured or interned by our enemies in World War II. Certainly the victims of German and Japanese persecution who have since become American citizens are as much entitled to recompense as those Germans and Japanese, now citizens of this country, to whom we propose to restore property seized from them during the

war. Therefore I urge that the categories of reimbursable loss by present citizens be expanded to include recompense for former prisoners of our World War II enemies, for those who were incarcerated in concentration camps, and for those who were deprived of their liberty and required to perform forced labor. These categories include some of the most tragic victims of this bitter chapter of world history.

Senator Keating has indicated that he agrees with these additional views.

Individual Views of Senator John A. Carroll

I agree in large part with the views filed herein: The matters covered in these four sections are of considerable importance and it is well past time for action by the Congress. However, section III dealing with the sale of certain vested assets and section IV dealing with American claims arising out of postwar agreements, being questions not directly involved in the substance of this bill, should be considered in separate legislation.

John A. Carroll.

Foreign-Born War Claimants—America's Second-Class Citizens

(By Kenneth B. Keating)

When is an American citizen not an American citizen? If one is to judge by certain war claims legislation which has been proposed, it is when that American citizen became naturalized after World War II. Under such proposals, if an individual became an American citizen after the last war, his Government—the United States—would ignore his claim. He would be forced to seek redress through the nation where he formerly had citizenship, but this would be a futile gesture, especially in cases of those countries now under Communist rule.

Last year a bill was approved in the House of Representatives for the payment of compensation to Americans who suffered injury or death or who suffered property losses in certain areas as a result of World War II. Omitted from this otherwise salutary proposal were thousands of Americans who were unable to become U.S. citizens until after the war. I have introduced legislation to correct this (S. 956) as I do not believe the compensation program will be fully adequate until provision is made to prevent discrimination against Americans based on the date on which they assumed the duties and obligations of citizenship of this free land.

Following World War II we welcomed thousands of new American citizens to our shores. Large numbers of them suffered indescribable privations during the war. Many were tortured and enslaved and were the victims of every form of persecution. Certainly these people who are now full-fledged Americans have as much claim to participate in the war compensation program as any other segment of American war claimants.

This turning of our backs on these new Americans is especially strange in the light of other legislation approved last year by the Senate Judiciary Committee which would return vested properties to former German and Japanese owners who are now U.S. citizens. In other words, Congress proposed to compensate former enemy nationals whose property was vested if they are now citizens but former allied nationals, now citizens, would be denied relief. For example, a victim of the concentration camps who did not come to this country until after his liberation in 1945 would receive no compensation. Such results cannot possibly be justified. In good conscience we must reject the proposition that American citizenship acquired after one type of war loss will justify a return of property but if acquired after another type of war loss will bar recovery.

It is abhorrent to our concepts of citizenship to distinguish between Americans on the basis of when they happened to become naturalized. We have never recognized in this country any concept of second-class or junior citizenship. Even European countries which have adopted war claims programs in behalf of their own nationals have made provision for claimants who became nationals after they suffered their original loss. Certainly we in the United States can do no less.

REPLY MEMORANDUM

I

On July 24, 1959, the Assistant Legal Adviser for International Claims, Department of State, testifying in House hearings on war claims and enemy property legislation [1] introduced, for the record, a memorandum dated February 6, 1959, entitled "The Matter of Nationality With Respect to International Claims." [2] The memorandum was submitted in response to a request from the chairman for the "position of the State Department" concerning proposals "to pay claims of people who are now citizens (of the United States) but who were not citizens at the time of loss." [3]

While the record of the hearing contains testimony and statements of various persons and organizations in favor of inclusion of such citizens in war claims programs,[4] the State Department memorandum is specifically directed at a petition [5] by our organization:

"This memorandum is directed at the contents of a printed document entitled 'Petition to the Congress of the United States' by the 'Conference of Americans of Central-European Descent' in which it is sought to establish that this Government should recognize as valid and seek compensation from foreign governments with respect to claims against foreign countries of naturalized citizens who did not have that status at the time their claims arose as a result of nationalization or expropriation by a foreign government."

The "petition" thus singled out for attention by the Department of State is also set forth in the transcript of the same hearings.[6] In the colloquy with the Assistant Legal Adviser which ensued after the State Department memorandum was introduced, a committee member referred to the memorandum as "a very compelling piece of research and * * * a very fine piece of briefmaking" [7] but went on to say that it "doesn't cover the problem we are discussing here at all, because it is, after all, a matter of domestic policy in which Congress has full and complete power to hear and adjudicate these claims in any manner in which they [sic] see fit." The Assistant Legal Adviser agreed.[8] He also agreed that international law did not govern in the exercise by the Congress of this "matter of domestic policy." [9] Nevertheless he felt that "Congress, in determining what disposition should be made of the assets, might take into account who has valid claims under international law and who does not." [10]

Our petition to the Congress was not an attack upon the right of the Department of State to express its views on what should be domestic policy in municipal legislation. The Congress is entitled to the best informed opinion from all sources. This is quite different from urging upon the Congress in the name of a historic doctrine of international law that it is bound to distinguish, in claims legislation, between categories of U.S. citizens. An impression that this is so has been current in the Congress. Nevertheless, deference is due international law. Our petition suggested reappraisal of the exclusionary formula of international law itself in terms of today's realities. As Justice Holmes said, "Everyone instinctively recognizes that in these days the justification of a law for us cannot be found in the fact that our fathers always have followed it. It must be found in some help which the law brings toward reaching a social end which the governing power of the community has made up its mind it wants." [11]

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[1] The testimony is set forth in hearings before a subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 86th Cong., 1st sess., on bills to amend the War Claims Act and the Trading With the Enemy Act (referred to in this statement as "Hearings"), pp. 694–713.

[2] Id. at 699–708.

[3] Id. at 699.

[4] Inter alia, American Jewish Committee, pp. 719–722; American-Yugoslav Claims Committee, Bulgarian Claims Committee, Association of Yugoslav Jews in the United States, pp. 590–592.

[5] Petition to the Congress of the United States proposing a policy of full inclusion of naturalized citizens in claims settlements in accordance with the concepts of Public Law 857, 81st Cong., submitted by Conference of Americans of Central-Eastern European Descent.

[6] Hearings, pp. 427–443.

[7] Id. at 711.

[8] Ibid.

[9] Id. at 712.

[10] Id. at 711.

[11] Holmes, "Collected Legal Papers," 1920, p. 225.

The gravity of the problems of eligibility both for the U.S. Government, and many of its citizens, appear to have been subordinated by the authors of the State Department memorandum to the temptations of a certain type of adversary brief. The manner, contents, and tone of the memorandum are regrettable. Thus, the memorandum immediately misstates what the petition meant to establish; follows this with an unwarranted and unfair attack upon the "lack of care" in the preparation of the petition; claims that the petition's authors "lifted phrases out of context," "omitted" important words from quoted language; gave an "inaccurate impression" of an important decision by Judge Parker; "misinterpreted" the meaning and purport of certain international agreements. These are immediately recognizable as the kinds of complaints of technicians designed to generate heat but little light. For the sake of the record, these complaints will be technically refuted in a subsequent portion of this statement. Of more importance, as a reflection of attitude, is the State Department's unfortunate characterization of the serious congressional consideration of this post-World War II problem as attributable to a "campaign," presumably by disgruntled claimants desirous of upsetting international law. It is stated, seemingly with satisfaction, that this "campaign" has been unsuccessful with the single exception of claims against Italy for which special justification—ample availability of funds—existed. Yet, as another section of this statement shows, if, indeed, this be a "campaign," it was initiated by a favorable vote of the U.S. Senate on February 14, 1950, approving a new and more liberal eligibility formula,[12] and furthered by the supplementary report of 1953 to the Congress of the War Claims Commission, strongly supporting the same liberal formula.[13] Neither of these official actions is mentioned by the Department of State in its detailed review of the "campaign" it now counterattacks.

Alleged misquotation and misinterpretation of the act of July 27, 1868 (15 Stat. 223)

The petition, in passing, cites this act twice as follows:

(*a*) "This (discrimination against certain naturalized citizens in property protection claims) despite the act of July 27, 1868 (15 Stat. 223), in which Congress, as a matter of the 'fundamental principles of this Government' declared that naturalized citizens should be entitled to receive abroad from the United States 'the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances'."

(*b*) "In the act of July 27, 1868 (15 Stat. 223), Congress declared as a matter 'of the fundamental principles of this Government' that naturalized citizens should be entitled to receive abroad from the United States 'the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances'."

This language of brief description may be compared with its source: Senate Report No. 800, 81st Congress, 1st session, the report of the Senate Committee on

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[12] H.R. 4406, 81st Cong., 1st sess., Senate Calendar No. 810, amending sec. 2(c) to read as follows:

"The term 'nationals of the United States' includes (1) persons who are citizens of the United States, and (2) persons, who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens; *Provided, however,* That if any agreement hereafter concluded between the Government of the United States and a foreign government, of the character mentioned in section 4(a) of this Act, includes provisions for the settlement and discharge of claims of individuals who, at time of nationalization or other taking, (1) were permanent residents of the United States and (2) had declared their intention to become citizens of the United States in conformity with the provisions of the Nationality Act of 1940, as amended, such individuals shall, for the purposes of this Act, be deemed 'nationals of the United States' if they shall have acquired citizenship of the United States prior to the effective date of the relevant intergovernmental settlement agreement."

The Senate amendment commences with the word *"Provided."*

[13] This report was made pursuant to sec. 8 of the War Claims Act of 1948, as amended (Public Law 896, 80th Cong.). It may be found in H. Doc. No. 67, 83d Cong., 1st sess. In relevant part, sec. 8 is as follows:

"The Commission shall inquire into and report to the President for submission of such report to the Congress * * * with respect to war claims arising out of World War II * * * and shall present in such report its findings * * *. (b) The report of the Commission shall contain recommendations with respect to (1) categories and types of claims, if any, which shall be received and considered and the legal and equitable basis therefor * * *. (c) The Commission shall include in such report (1) such recommendations as it may deem appropriate; * * *. (d) Such report, with accompanying evidence, shall be printed as a public document when received by the Congress * * *. (e) Nothing in this section shall be deemed to imply that the Congress will enact legislation (1) adopting any recommendation made under this section with respect to the consideration or payment of any type of claim. * * *"

Foreign Relations recommending passage of the basic measure which was enacted as the International Claims Settlement Act of 1949. Discussing the cognate problem of dual nationality, the act of July 27, 1868 (15 Stat. 223), was thus described (pp. 7–8):

"By the act of July 27, 1868 (15 Stat. 223), Congress pronounced 'any declaration, instruction, opinion, order or decision of any officers of this Government which denies, impairs, or questions the right of expatriation to be inconsistent with the fundamental principles of this Government.' Furthermore, it was declared that naturalized citizens should be entitled to receive abroad from the United States 'the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances'."

An argument is made by the authors of the State Department memorandum that the act of July 27, 1868 should be construed to apply only to the property abroad of naturalized citizens of the United States while such citizens are themselves abroad. We submit that this is strangely tortured statutory construction in the circumstances of U.S. citizens who, stateless, physically fled Nazi persecution, thereafter suffered Communist expropriation, and now find themselves "without protection of either their country of origin or of the United States in obtaining compensation for their losses * * *." (Ibid., p. 8.) If this is, indeed, the only possible legal construction of the 1868 act, the Department of State should initiate, or join in, a proposal for an appropriate amendment of the 1868 act so that its spirit be fully applicable to the problems of 1960.

2. The nature and purpose of the petition

Having misstated[14] what the petition seeks, the memorandum marshals authorities and concludes:[15] "There is no doubt that generally accepted principles of international law and practice require that a claim be continuously owned from the date the claim arose, and at least to the date of presentation, by nationals of the state asserting the claim."

First, it is evident that the petition was addressed to the Congress and not to the Department of State. The petition does not ask that the Congress impinge on the constitutional power of the Executive in espousing diplomatic claims or in negotiating intergovernmental claims settlement agreements. The petition asked that the Congress weigh competing policies, of exclusion or inclusion of U.S. citizens, within its own undoubted constitutional power to enact legislation providing for distribution of lump-sum settlement or vested funds. The petition, in its summary[16] states its purpose clearly: "The heart of the issue, as a matter of law, is whether there is a positive legal impediment, in international law, to the inclusion of all U.S. citizens in the distribution of compensation funds." The petition's conclusion on this point is as follows:[17] "No principle of law, international or otherwise, precludes Congress, in the distribution of claims funds, from including in the distribution all persons who were citizens of the United States on the effective date of the foreign settlement, or on the date of the enactment of the statute, as the proper case may be." As has been seen,[18] the Assistant Legal Adviser of the Department of State in open hearing on the State Department memorandum agreed that this was so.

3. The applicability of international law in the negotiation by the Department of State of international claims settlement agreements

A further conclusion in the petition is stated therein as follows:[19]

"No principle of international law precludes the Department of State from negotiating for lump settlements of the claims of all citizens of the United States at time of the effective date of the foreign settlement."

The memorandum reviews statements of lawyers, scholars, and tribunals to demonstrate that there is a rule of international law that in resorting to diplomatic action or international judicial proceedings on behalf of its nationals, a state asserts its own right which right can arise only if the person injured was its national at the time of injury.

The petition nowhere denies that such authority exists and, in fact, cites some of the identical authorities.[20] But, clearly, in the context of the petition, the

[14] Quoted in the 2d paragraph of this statement.
[15] Hearings, p. 708.
[16] Id., at 429.
[17] Id., at 443.
[18] See footnote 6, supra.
[19] Hearings, p. 443.
[20] Id., at 432, footnote 2.

quotations are immaterial. The Permanent Court of International Justice in the very citation given in the memorandum [21] states the rule to be applicable only "in the absence of special agreement." The issue is whether in the present world situation (widespread absence of effective local remedy), the Department of State should seek such "special agreements" on the ground that the reason and purpose of the "weight of authority" cited are no longer applicable. This is a policy decision for the Department of State. Such agreements become, under international law, binding undertakings between governments. They are neither void nor voidable as in violation of international law. When, as in the case of Belgium and Czechoslovakia,[22] it is agreed that the coverage shall extend to nationality "at the time of the signature of the agreement," the agreement is the international law of the subject as between Belgium and Czechoslovakia. If a similar agreement were entered into as a result of present negotiations between the United States and Czechoslovakia, the agreement would be the international law of the subject between the United States and Czechoslovakia.

The above seem elementary propositions and are, implicitly, accepted in the memorandum. In reality, the State Department seems to state, in its memorandum, that it is not its function to act as a proponent with foreign governments for a large body of U.S. citizens who are otherwise legally helpless. The Department, if the memorandum is read correctly, would prefer to put itself in the position of a judge on the Permanent Court of International Justice reviewing a controverted jurisdictional issue as to eligibility between two other countries. In the terms of the petition, this is not, and cannot be, the Department's role. Can the Department of State fear that a special agreement broadening eligibility will create a precedent whereby some foreign government would seek lump-sum compensation for takings of the property of its nationals by the United States and seek coverage for persons who were citizens of the United States at time of loss and became citizens of the foreign government after date of loss? To state this hypothesis demonstrates its lack of reality. There would have to be demonstrated that the courts of the United States denied justice or did not afford an effective local remedy to such persons.

4. Alleged inaccurate impression given in the petition of the decision of the Mixed Claims Commission, United States and Germany

The memorandum states [23] that an "inaccurate impression" was given as to "what was said or decided" by the Mixed Claims Commission, United States and Germany, in "fragmentary statements" quoted in the petition from the opinion of Judge Parker in administrative decision No. V.

It is true that to achieve economy of quotation, Judge Parker's opinion was not reproduced in full. Nor was there need, in the interests of space, to recapitulate other decisions of the Mixed Claims Commission, United States and Germany. Nevertheless, what was quoted, accurately stated Judge Parker's view insofar as germane to the petition's argument. Judge Parker, a noted jurist, was chosen to act as umpire between the American and German Commissions. His views are entitled to respect.

Similarly, the authors of the State Department memorandum would be unfairly charged with giving an "inaccurate impression" by "fragmentary statements," if it were said that this was their purpose in quoting from claim No. IT–10, 252, decision No. IT–62, Giorgio E. Padovano, of the decisions of the Foreign Claims Settlement Commission of the United States [24] and not quoting from claim No. IT–10, 640, decision No. IT–81–2, Petes Allen, of the same Commission.

Claim No. IT–10252, decision No. IT–62, cited in the memorandum, was reconsidered and an award rendered, albeit the claimant became a citizen of the United States after the date of loss. This was because the Congress, by Public Law 85–604, August 8, 1958, amended section 304 of the International Claims Settlement Act of 1949, as amended, to make such late citizens eligible. The Commission there said: [25]

"The property which is the subject of the claim before the Commission was not owned by a U.S. national at time of damage and the United States received no injury * * *. Nevertheless, it is the considered judgment of the Commission

[21] Id., at 702, No. 11.
[22] Id., at 704.
[23] Id., at 702, No. 12.
[24] Id., at 703, No. 13.
[25] Foreign Claims Settlement Commission, 10th Semiannual Report to the Congress, p. 155.

that the instant claim is entitled to an award under section 304, as revised, for the following reasons:

"An international claims settlement is founded on the wrong done to a nation itself through injuries to its nationals (Feller, the Mexican Claims Commission, p. 83 et seq., and authorities cited, supra.) *A settlement fund, when received, and at least unless otherwise committed by the terms of the settlement agreement, belongs to the nation whose nationals suffered the injuries* (*First National City Bank of New York* v. *Gilliland*, 257 F. (2) 223, 227).

"Under the amendment to section 304, the rights of persons who do have valid claims under international law have been preserved. What the Congress has done is merely to provide for the disposition of any balances which remain in the fund received from Italy after the payment of such claims. This claim, although not cognizable under the rules of international law, is allowable within the class which, *by specific legislative authorization*, may be entitled to participate in any such residual disposition." [Emphasis supplied.]

5. The matter of international agreements

The memorandum debates with the petition[26] the proper interpretation of certain of the settlement agreements cited:

A. *France-Poland, March 19, 1948.*—The memorandum argues that because in the cases of France and Yugoslavia, Czechoslovakia and Hungary, respectively, the agreements specifically required citizenship at time of loss, it is not unreasonable to assume that the French applied the same requirement in the case of Poland although the agreement with that country contained no such requirement. It seems more logical to assume the reverse since more French citizens would be benefited. Doubtless the facilities of the American Embassy in Paris are available to the authors of the State Department memorandum to ascertain the exact practice of France in interpreting the agreement without the necessity for the Department of State to entertain assumptions.

B. *United Kingdom-Yugoslavia, December 23, 1948.*—The memorandum states[27] that "article 1(b) makes it abundantly clear that the British nationals included in the agreement were those who had that status on 'the date of the relevant measure or measures' adopted by Yugoslavia—that is, the date of loss." Article 1(b), thus described as abundantly clear, is as follows:

"The said sum (£4,050,000) represents the aggregate value of all British property affected by various Yugoslav measures and shall be paid by the Government of Yugoslavia free from any deduction or obligation of any kind."

Article IV(a) defines "British property" as "all property, rights, and interests affected by various Yugoslav measures, which, on the date of the relevant measure or measures, were owned directly or indirectly by British nationals to the extent to which they were so owned."

The memorandum does not state, which is, in fact, the case, that the British Foreign Compensation Commission, in accordance with the terms of a British order in council of 1950, in defining the "relevant date" for eligibility ruled as eligible all British nationals who, at their option, chose the date of the agreement, December 23, 1948, as the "relevant date" irrespective of whether such persons became British nationals after the date of loss.

United Kingdom-Czechoslovakia, September 28, 1949: The British practice is here identical, except for the date of the agreement, with the case of Yugoslavia. (See foreign compensation (Czechoslovakia) order in council, 1950, No. 1191, arts. 7, 15.)

C. *Swiss-Czechoslovakia, December 18, 1946.*—The memorandum states[28] that the "Department has been unable to find an agreement concluded on that date." A typographical error crept into the citation given in the petition.[28] The Department may find this agreement in *Sammlung der Eidgenoessichen Gesetze*, Bern, June 3, 1948, No. 18, page 559. Article 2 defines as claimants persons who possessed Swiss nationality on the date of the agreement.

D. *Swiss-Hungarian, July 19, 1950.*—Here the Department of State makes the same argument[29] as in the case of the France- Poland agreement of March 19, 1948, supra. To which, of course, there should be given the same reply.

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[26] Hearing, pp. 703–704.
[27] Id., at 703.
[28] Id., at 704.
[29] Id., at 442.

III

In sum, the Department of State memorandum is an argument that the Congress ought to adopt domestically what the Department has adopted internationally. It is urged that the Congress do in the name of inadequate funds what the Department does in the name of international law. The end result is, of course, the same.

The Department's views thus advanced in the form of an adversary brief may be contrasted with the 247-page "Supplementary Report of 1953 to the Congress by the War Claims Commission" referred to in the opening portion of this statement. There is no record of a reply to the War Claims Commission having been prepared in the Department of State and filed with the Congress. Indeed, the petition attacked by the Department is a projection of the recommendations of the War Claims Commission. As was its mandate, the War Claims Commission limited its recommendations to war claims legislation. The petition also argues the position with respect to post war expropriations. The principle involved is the same. The findings of the War Claims Commission are well worth repeating as a conclusion to this statement: [30]

"The question is, Shall compensation be limited to American citizens, or shall it be available to American nationals and alien residents as well? With respect to these different categories, there arises the subsidiary question as to when the person must have had the requisite status. In this connection there are combinations which might be made up of the following alternatives: that the claimant have the qualifying status (*a*) at the time of injury or loss; and/or (*b*) at the time of filing of claim; and/or (c) at the time of the award.

"In view of the fact that this survey is related to possible domestic legislation on war claims, the question of nationality as an eligibility factor is distinguishable from the corresponding question which may be involved in claims asserted against a foreign government.

"With respect to international claims, it is found that, generally, the claimant must have been a national of the country representing him at the time of loss at the time of the presentation of the claim (Borchard, "The Diplomatic Protection of Citizens Abroad" (1915) pp. 660, 664). This, substantially, was the rule followed by the Mixed Claims Commission, United States and Germany, following World War I. Under its decision, to be eligible, the claimant had to be an American national at the time of loss and at the time of ratification of the Treaty of Berlin.

"The rule which these precedents suggest is predicated upon the principle that no individual has any standing in court against a foreign government; that a wrong done to a national of a foreign country is ipso facto an injury sustained only by the nation of which the injured party is a member; and that, therefore, a nation may, in an interntaional tribunal, espouse only the claims of its own nationals. Under this doctrine an injury done to an alien resident of a given country is, from the standpoint of the international law relative to the espousal of claims deemed to be of no concern to the country in which the aggrieved person resides. (Borchard, ibid, p. 666.)

"This rule apparently underwent a considerable modification in the peace treaties concluded after World War II. Thus, in the treaties with Italy, the Balkan countries, and with Finland, eligibility was predicated upon the claimant being a United Nations national on the date of the armistice and on the effective date of the treaty relative to the country in question. In the Allied Powers compensation law provided for by the treaty with Japan, the corresponding rule is that the claimant had to be a national of one of the signatory powers at the outbreak of the war and on the effective date of the treaty.

"It thus appears that even in the field of international claims there is no absolute rigidity about the rules with respect to the nationality of the claimant.

"The Commission finds that the principle that a claim must be national in origin and national at the time of its presentation has no necessary application in the field of domestic war-damage legislation. In this field the Congress has absolute discretion in laying down rules governing the eligibility of claimants. (Ibid. p. 256: "* * * as an act of grace * * * a state may, after peace consent to compensate its subjects and even domiciled aliens for their losses, thus distributing the individual loss equitably over the whole nation"; ibid. p. 695.) There are numerous instances illustrative of the disregard of this rule by the Congress. Thus, the requirement that a claimant must have been an American national was not a condition of eligibility in the Defense Bases Act, nor in the

[30] H. Doc. 67, 83d Cong., 1st sess., pp. 119–121.

War Hazards Act. In the Guam Relief Act, the only eligibility requirement with respect to persons is that the claimant must have been a permanent resident of Guam. It is to be noted further that in the distribution of the award among *Alabama* claimants, the court held that aliens who sustained losses on American vessels were eligible claimants. This ruling was made on the basis of the statutory provision that persons entitled to the protection of the United States could claim. Also, it is noted that in war-damage compensation laws of Australia, Austria, Denmark, Italy, Malaya, Malta, and the United Kingdom, the nationality of the claimant is immaterial in determining eligibility. (See Fraleigh, 'Compensation for War Damage to American Property in Allied Countries,' 41 Am. Jour. International Law, October 1947, pp. 748–796, for a very illuminating discussion of the territorial basis for compensating for war damages as against the settlement of these claims on a nationality basis.)

"As will appear subsequently, if more than a token payment is to be made on account of war-damage claims, the Congress will be required to appropriate money from funds raised by taxation, as a source for the payment of these claims. The Commission finds no basis for excluding from the benefits of the fund any group of persons who, through taxation, have and will be contributing to the fund on the par with persons who were citizens at the time of loss.

"Although the Commission believes that it would be just to include mere residents of the United States as eligible claimants, the Commission refrains from making that recommendation because it might result in the extension of benefits to persons whose allegiance to the United States has not been fixed and whose stay in the United States was of a transitory nature. After weighing all the factors which relate to the problem, the Commission has concluded that a just rule is that the following natural persons shall be deemed eligible as war-damage claimants:

> "(1) Persons who were American citizens or American nationals at the time of loss and had either status at the time of the presentation of the claims; also,
>
> "(2) Persons who, at the time of loss, were permanent residents of the United States or its territories or possessions and had declared their intention to become citizens of the United States in conformity with the provisions of the Nationality Act of 1940, and who, at the time of the presentation of the claim, were American citizens or American nationals.

"The latter group of Americans who became citizens do not have the protection of other governments with respect to their losses. Rather than being subjected to exceptional hardships, they should, in the opinion of the Commission, share in the benefits of a war-damage compensation program on a par with other American citizens. (It should be noted that this class of beneficiaries was subject to military service in World War II.)

"The equities in favor of this group of claimants were considered persuasive by the Senate in a cognate problem, the settlement of American nationalization claims against Yugoslavia. At one stage, the Senate voted to amend the proposed International Claims Settlement Act of 1949 to include this category of American citizens among those eligible to claim. The amendment was, howver, not adopted by the conferees, on the apparent ground that it would run counter to established doctrine with respect to the espousal of international claims. While there may be a valid legal basis for the exclusion of this category of citizens from the right to participate in an award received from a foreign country in settlement of a specific category of international claims, no similar reason exists for their exclusion from the benefits of domestic war damage compensation. The Commission believes that in formulating domestic policy the Senate's predisposition to include this group among eligible claimants should govern."

CONCLUSION

No principle of international law precludes the Department of State from negotiating for lump-sum settlements of the claims of all citizens of the United States at time of the effective date of the foreign settlement. No principle of law, inernational or otherwise, precludes Congress, in the distribution of claim funds, from including in the distribution all persons who were citizens of the United States on the effective date of the foreign settlement, or the date of the enactment of the statute, as the case may be. Sound policy requires that the so-called "continuity of nationality" principle be modified as to actions impending in the foreign claims field, both in the Department of State and in Congress. The guiding principle should be just and equal treatment of all citizens of the United States.

[From the Congressional Record, Feb. 16, 1961]

SETTLEMENT OF CERTAIN WAR CLAIMS

Mr. KEATING. Mr. President, I introduce, for appropriate reference, a bill to provide for the settlement of certain uncompensated World War II damage claims. This measure is an effort to get something done for the 50,000 or more Americans who suffered serious losses of life, limb, and property in World War II. The long delay in the settlement of these claims is intolerable. The claimants under my bill have been sitting on the sidelines for almost 16 years waiting for consideration. During all that time, the Congress has given them no relief.

Why this is so, staggers the imagination. We have, or shortly will have, the money to pay the claims. It was obtained from vested assets given to us by the postwar Governments of Germany and Japan in lieu of billions in reparations. We have used some of this money to pay a limited category of American war claims. Yet there has been a feeling in some quarters that the remainder is somehow sacrosanct; that it must be given back to our former enemy nationals and presumably, that our uncompensated American war damage claimants either be paid out of the pay envelopes or pocketbooks of their fellow taxpayers or that their claims be abandoned. The former alternative simply means that the American taxpayer will be footing a substantial part of Germany's and Japan's reparations bill. The latter alternative would be a step reeking with injustice. Neither alternative, if taken, would be a credit to the Congress of the United States.

It is hoped that, while engaged in the balance of trade negotiations with West Germany, the administration will not lose sight of the 50,000 Americans who have not been compensated for war damage claims. The legitimate claims of these people should in no way be overshadowed by an attempt to effect a hurried settlement with the German Government on the gold flow problem.

In both the case of war claims and the international balance of trade situation, the legitimate interests of American citizens must be respected. Hopefully, the failure of the present administration to send up a measure similar to the one I propose today does not signify an indifference to the problem. Nothing should be agreed to in these negotiations which would imperil our American war claims program, and I hope the new administration will give its wholehearted support to this bill.

The major category of claims authorized under this bill would cover physical damage to or physical loss or destruction of property in most central European countries and in Japanese occupied territories as a result of military action or special measures taken against it because of the enemy or alleged enemy character of the owners. Claims also would be allowed for damage to or loss or destruction of ships or ship cargoes as a result of military action, certain net losses of maritime insurance underwriters, claims by American civilian passengers—not crew members—aboard torpedoed passenger vessels in the period beginning September 1, 1939, and ending December 11, 1941, and reparations and losses resulting from the removal of industrial or capital equipment in Germany.

Under the bill, payment of awards on these claims would be made from the net proceeds of assets formerly owned by German nationals and vested under the Trading With the Enemy Act, with the exception of claims arising in the Japanese-occupied territories, for which the value of Japanese vested assets is inadequate.

Some of the more important provisions of the bill, in addition to types of claims authorized, require, first, that all awards be paid in full up to $10,000 in equal installments with payments on awards in excess of $10,000 prorated on a percentage basis as funds become available for their payment; second, that awards be reduced by the amount the claimants have received from any other source on account of the same loss; third, that a period of 20 months shall be allowed within which claims may be filed; and fourth, that the entire program shall be completed within 5 years from the date of the bill's enactment into law.

One important provision of the bill with respect to eligibility of claimants would make eligible all persons who are citizens of the United States at the time the bill is enacted. I have opposed attempts which were made in the past to exclude from the benefits of war claims legislation Americans who became citizens after their losses were originally suffered. It is obvious that the former countries of these persons, some of which countries have fallen under Communist domination, will not make any compensation to them. In any event, we do not accept any concept of second-class or junior citizenship in the United

States. It is very important that we not mar the just and equitable character of war claims legislation by discriminatory provisions against later nationals of our Nation.

With the exception of the Japanese claims, the entire program contemplated by this bill would be financed, as I have indicated, from the net proceeds of existing enemy vested assets now in hand which are not otherwise committed. These funds would be covered into the existing War Claims Fund created by the War Claims Act of 1948 and disbursed upon certification of the Foreign Claims Settlement Commission by the Secretary of the Treasury in the payment of the Commission's awards.

Under the wartime vesting program authorized by the Trading With the Enemy Act, the United States, as a defense measure, vested many types of assets then owned by Germany and Japan or their respective nationals situated in the United States which came to have a value of approximately $694 million. These properties, consisting of real estate, interests in trusts or estates, securities, accounts and credits, going commercial enterprises, and a host of other types of funds or wealth, came under the exclusive control and management of our Government.

In appropriate cases, many of the items taken were liquidated or turned into cash. From time to time, since the end of World War II, the Congress has directed the return of certain properties or payment, out of cash balances to former owners, of the proceeds derived from the liquidation of their properties. The costs of administering this program have also been taken out of these proceeds. The great bulk of these assets, however, some $228,750,000, has been used in the payment of a wide variety of American war claims filed by former American prisoners of war, civilian internees, American religious organizations in the Philippines, Amercan merchant seamen captured by the enemy and by owners of bank accounts, and other credits sequestered by the Japanese in the Philippines.

As a result, Mr. President, we have remaining in our hands, roughly $286 million of vested assets of German origin, most of which is subject to pending litigation, and a considerable portion of which has not as yet been reduced to cash. I am informed, however, that if this bill were enacted into law tomorrow, a substantial sum would be immediately available from this source, to get this war claims program underway. By the time the Commission could begin issuing awards, a year or so from now, this sum could be substantially increased to permit claimants eligible to receive awards ultimately to receive very adequate compensation for their losses.

Mr. President. I have been distressed at the hue and cry that has gone up in the past over the use of these vested assets for the payment of legitimate and as yet uncompensated American war claims. One would think, from listening to those who advocate their return that we had no right to retain them or use them for this purpose. Nothing could be further from the truth. These misguided philanthropists turn their backs on the fact that the assets in question were given to the United States by Germany and Japan in solemn agreements and in the Japanese Peace Treaty, in lieu of billions in reparations We could otherwise have exacted a staggering reparations burden many times in excess of the $694 million worth of properties we rightfully vested during the war. Our former enemies knew that, and they were only too glad to settle for this lesser amount, as they did with every other one of the Allied Powers.

I will not at this time consume the time of the Senate in documenting the history of our acquisition of these vested properties. It is all a matter of record. The facts are not disputed, although they are ignored by some. Germany and Japan are now among our allies. I have nothing but the warmest feeling toward their present governments and their people. I know that both these governments recognize their responsibilities under the agreements they have made with us respecting these vested assets, and will live up to them, and that they will compensate their own nationals for whatever losses they may have suffered through our wartime vesting program. I am happy to note that, as far as Germany is concerned, she has already taken initial steps in that direction.

Actually, all that is proposed in this bill is an extension of the program for using vested enemy assets for the relief of American war victims which began with the adoption of the War Claims Act of 1948. Under that act, we made many categories of claims from this source. In the enactment of that legislation we heard no wailing or moaning that the use of our vested assets for the

payment of these claims constituted any violation on our part of accepted principles of either international or domestic laws; that our retention and use of these properties for that purpose was immoral. No, indeed. It was then agreed on all sides that these claims should be paid and that the vested assets of our wartime foes could reasonably be used to foot the bill for their payment. The bill I am introducing asks no more.

I hope that all Senators will give this subject their close study. But I also hope that there will be no unreasonable delay in taking action. These claims have gone unremedied for too long. It should be possible, before the end of the present session of the 87th Congress, to finally say the job has been done.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the Record.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 956) to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses, introduced by Mr. Keating, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the Record, as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the War Claims Act of 1948, as amended, is further amended by inserting after section 1 thereof the following:

"'TITLE I'

"SEC. 2. The word 'Act' wherever it appears in title I in reference to the War Claims Act of 1948, as amended, is amended to read 'title'.

"SEC. 3. The War Claims Act of 1948, as amended, is further amended by adding at the end thereof the following:

"'TITLE II

"'*Definitions*

"'SEC. 201. As used in this title the term or terms—

"'(a) "Albania", "Austria", "Czechoslovakia", "the Free Territory of Danzig", "Estonia", "Germany", "Greece", "Latvia", "Lithuania", "Poland", and "Yugoslavia", when used in their respective geographical senses, mean the territorial limits of each such country or free territory, as the case may be, in continental Europe as such limits existed on December 1, 1937.

"'(b) "Commission" means the Foreign Claims Settlement Commission of the United States established pursuant to Reorganization Plan Number 1 of 1954 (68 Stat. 1279).

"'(c) "national of the United States" means (1) a natural person who is a citizen of the United States, (2) a natural person who, though not a citizen of the United States, owes permanent allegiance to the United States, and (3) a corporation, partnership, unincorporated body or other entity, organized under the laws of the United States, any State or Territory thereof, or the District of Columbia and in which at least 50 per centum of the outstanding capital stock or other proprietary or similar interest is owned, directly or indirectly, by nationals of the United States. It does not include aliens.

"'(d) "property" means real property and such items of tangible personality as can be identified, evaluated and, as determined by the Commission, are normally owned by any person or entity in like circumstances as that of the owner or claimant at the time of loss, and items of personalty or movables held or used in carrying on a trade, business or profession at the time of such loss. It does not include intangible property.

"'*Amendment to Trading With the Enemy Act*

"'SEC. 202. Section 39 of the Trading With the Enemy Act of October 6, 1917, as amended, is amended by adding at the end thereof the following new subsection:

"'"(c) The Attorney General is authorized and directed to cover into the Treasury from time to time after the enactment of this subsection for deposit in the War Claims Fund for credit to the German Claims Account created therein pursuant to subsection (a) of section 203 of the War Claims Act of 1948, as amended, such sums, from property vested in or transferred to him under this

Act, as he shall determine in his discretion not to be required to fulfill obligations imposed under this Act or any other provision of law, and not to be the subject matter of any judicial action or proceeding."'

"'*War Claims Fund accounts*

"'SEC. 203. (a) There are hereby created in the War Claims Fund established pursuant to subsection (a) of section 13 of the War Claims Act of 1948, as amended, two accounts to be known, respectively, as the German Claims Account and the Japanese Claims Account. The Secretary of the Treasury shall deposit in the War Claims Fund for credit to the German Claims Account all amounts covered into the Treasury by the Attorney General pursuant to subsection (c) of section 39 of the Trading With the Enemy Act of October 6, 1917, as amended. The Secretary of the Treasury shall deposit in the War Claims Fund for credit to the Japanese Claims Account all amounts appropriated pursuant to subsection (b) of this section. There shall be deducted from each such deposit for credit to the German Claims Account and from each such deposit for credit to the Japanese Claims Account 5 percentum thereof for expenses incurred by the Commission and by the Treasury Department in the administration of this title. Such deductions shall be made before any payment is made pursuant to section 214 of this title, out of either such accounts. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

"'(b) There is hereby authorized to be appropriated out of any monies in the Treasury not otherwise appropriated the sum of $10,000,000 which shall be deposited in the War Claims Fund for credit to the Japanese Claims Account created pursuant to subsection (a) of this section.

"'(c) There is hereby authorized to be appropriated out of any monies in the Treasury not otherwise appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their administrative expenses in carrying out their respective functions under this title.

"'*Claims authorized*

"'SEC. 204. This Commission is directed to receive and to determine according to the provisions of this title the validity and amount of claims of nationals of the United States for—

"'(a) physical damage to, or physical loss or destruction of property located in Albania, Austria, Czechoslovakia, the Free City of Danzig, Estonia, Germany, Greece, Latvia, Lithuania, Poland, or Yugoslavia, or in territory which was part of Hungary or Rumania on December 1, 1937, but which was not included in such countries on September 15, 1947, which occurred during the period beginning September 1, 1939, and ended May 8, 1945, or which occurred in the period beginning July 1, 1937, and ending September 2, 1945, to property in territory occupied or attacked by the Imperial Japanese military forces (including territory to which Japan has renounced all right, title and claim under Article 2 of the Treaty of Peace between the Allied Powers and Japan, except the Commonwealth of the Philippines and the island of Guam); such loss, damage or destruction must have occurred, as a direct consequence of (1) military operations of war or (2) special measures directed against property in such countries or territories, during the respective periods specified, because of the enemy or alleged enemy character of the owner, which property was owned, directly or indirectly, by a national of the United States at the time of such loss, damage or destruction;

"'(b) damage to, or loss or destruction of, ships or ship cargoes directly or indirectly owned by a national of the United States at the time such damage, loss, or destruction occurred, which was a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; no award shall be made under this subsection in favor of any insurer or reinsurer as assignee or otherwise as successor in interest to the right of the insured;

"'(c) net losses under war-risk insurance or reinsurance policies or contracts, incurred in the settlement of claims for insured losses of ships owned by nationals of the United States at the time of the loss, damage, or destruction of such ships and at the time of the settlement of such claims, which insured losses were a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; such

net losses shall be determined by deducting from the aggregate of all payments made in the settlement of such insured losses the aggregate of the net amounts received by any such insurance companies on all policies or contracts of war-risk insurance or reinsurance on ships under which the insured was a national of the United States, after deducting expenses;

"'(d) loss or damage on account of—

"'(1) the death of any person who, being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, died or was killed as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be made only to or for the benefit of the following persons in the order of priority named:

"'(A) widow or husband if there is no child or children of the deceased;

"'(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

"'(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

"'(D) parents of the deceased (in equal shares) if there is no widow, husband, or child;

"'(2) injury or permanent disability sustained by any person, who being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, was injured or permanently disabled as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be payable solely to the person so injured or disabled;

"'(3) the loss or destruction, as a result of such action, of property on such vessel, as determined by the Commission to be reasonable, useful, necessary or proper under the circumstances, which property was owned by any civilian national of the United States who was then a passenger on such vessel; and in the case of the death of any person suffering such loss, awards under this paragraph shall be made only to or for the benefit of the persons designated in paragraph (1) of this subsection and in the order of priority named therein; and

"'(e) losses resulting from the removal of industrial or other capital equipment in Germany owned directly or indirectly by a national of the United States on the date of removal and removed for the purposes of reparations including losses from any destruction of property incident to such removal.

"'*Transfers and assignments*

"'SEC. 205. The transfer or assignment for value of any property forming the subject matter of a claim under subsections (a) or (b) of section 204 subsequent to its damage, loss or destruction shall not operate to extinguish any claim of the transferor otherwise compensable under either of such subsections. If a claim which could otherwise be allowed under subsections (a), (b) or (e) of section 204 has been assigned for value prior to the enactment of this title, the assignee shall be the party entitled to claim thereunder.

"'*Nationality of claimants*

"'SEC. 206. No claim shall be allowed under this title unless (1) the claimant and all predecessors in interest in the claim were, on the date of loss, damage, destruction, or removal and continuously thereafter until the date of filing claim with the Commission pursuant to this title, nationals of the United States, including any person, who having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to the date of enactment of this title if such individual, but for such marriage, would have been a national of the United States at all times on and after the date of such loss, damage, destruction, or removal until the filing of his claim; or (2) in the case of an individual who personally suffered the loss, damage, destruction or removal for which the claim is filed is a national of the United States on the date of enactment of this title.

"'*Claims of stockholders*

"'SEC. 207. (a) A claim under section 203 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall be denied.

"'(b) A claim under section 202 of this title, based upon a direct ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant in any such claim.

"'(c) A claim under section 202 of this title, based upon an indirect ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

"'(d) Any award on a claim under subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant bears to the entire ownership interest thereof.

"'*Deductions in making awards*

"'SEC. 208. In determining the amount of any award there shall be deducted all amounts the claimant has received on account of the same loss or losses with respect to which an award is made under this title.

"'*Consolidated awards*

"'SEC. 209. With respect to any claim which, at the time of the award, is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimant therein; and all such claimants shall participate, in proportion to their indicated interests, in the payments authorized by this title in all respects as if the award had been in favor of a single person.

"'*Certain awards prohibited*

"'SEC. 210. No award shall be made under this title to or for the benefit of any person who has been convicted of a violation of any provision of chapter 115, title 18, of the United States Code, or of any other crime involving disloyalty to the United States.

"'*Certification of awards*

"'SEC. 211. The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 204 as follows:

"'(1) Any award for losses arising in the countries named in subsection (a) of section 204, or attributable to military action by Germany under subsections (b), (c) or (d) of such section, or for reparation removals under subsection (e) thereof, shall be certified for payment from the German Claims Account.

"'(2) Any award for losses arising in territory occupied or attacked by Imperial Japanese military forces, or attributable to military action by Japan under subsections (b), (c) or (d) of such section, shall be certified for payment from the Japanese Claims Account.

"'*Claims filing period*

"'SEC. 212. Within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later, the Commission shall give public notice by publication in the Federal Register of the time when, and the limit of time within which claims may be filed, which limit shall not be more than eighteen months after such publication.

"'*Claims settlement period*

"'SEC. 213. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than five years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under

this title. Nothing in this provision shall be constructed to limit the life of the Commission.

"'*Payment of awards; priorities; limitations*

"'SEC. 214. (a) The Secretary of the Treasury is directed, out of the sums deposited in the War Claims Fund for credit to the German Claims Account pursuant to subsection (c) of section 39 of the Trading With the Enemy Act of October 6, 1917, as amended, and out of sums deposited in the War Claims Fund for credit to the Japanese Claims Account pursuant to subsection (b) of section 203 of this title, to make payments on account of awards certified by the Commission pursuant to this title as follows and in the following order of priority:

"'(1) Payment in full of awards made pursuant to section 204(d) (1) and (2).

"'(2) Thereafter, payments from time to time on account of the other awards made pursuant to section 204 in an amount which shall be the same for each award or in the amount of the award whichever is less. The total payment made pursuant to this paragraph on account of any award shall not exceed $10,000.

"'(3) Thereafter, payments from time to time on account of the unpaid balance of each remaining award made pursuant to section 204 which shall bear to such unpaid balance the same proportion as the total amount in the German or Japanese Claims Account respectively, and available for distribution at the time such payments are made bears to the aggregate unpaid balances of all such awards. No payment made pursuant to this paragraph on account of any award shall exceed the unpaid balance of such award.

"'(b) Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

"'(c) For the purpose of making any such payments, other than under section 214(a) (1), an "award" shall be deemed to mean the aggregate of all awards certified for payment from any one account in favor of the same claimant.

"'(d) If any person to whom any payment is to be made pursuant to this title is deceased or is under legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over $1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates.

"'(e) Payment on account of any award pursuant to this title shall not, unless such payment is for the full amount of the award, extinguish any rights against any foreign government for the unpaid balance of the award.

"'*Fees of attorneys and agents*

"'SEC. 215. No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"'*Application of other laws*

"'SEC. 216. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of this Act and title I of the International Claims Settlement Act of 1949, as amended, shall apply to this title: The first sentence of subsection (b) of section 2, all of subsection (c) of section 2 and section 11 of title I of this Act, and subsections (c), (d), (e) and (f) of section 7 of the International Claims Settlement Act of 1949, as amended.

" *'Transfer of records*

" 'SEC. 217. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.'

"SEC. 4. If any provision of this Act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of the Act, or the application of such provision to other persons or circumstances, shall not be affected."

CONFERENCE OF AMERICANS OF CENTRAL-EASTERN EUROPEAN DESCENT, NEW YORK, N.Y.

Executive committee, 1961–61:
- President: The Rt. Rev. Msgr. John Balkunas.
- Chairman of the executive committee: Vratislav Busek.
- Vice presidents: Joseph Lesawyer and Zygmund Sluszka.
- Secretaries: Mary Kizis and John G. Lexa.
- Treasurer: Miron Butariu.
- Chairmen of standing committees: Political committee, Pamfil Riposanu; press and information committee, Walter Dushnyck; special events committee, Charles Stankevitz; claims committee, John G. Lexa; immigration committee, Walter Zachariasiewicz.
- Other members: Tibor Eckhardt, Bela Fabian, Feliks Gadomski, Eugene Kerno, William Momchiloff, Francis Proch, Paul Saar.

Member organizations:
- Albanian American Literary Society.
- American Bulgarian League.
- Czechoslovak National Council of America.
- Estonian National Committee in the United States of America.
- American Hungarian Federation.
- American Latvian Association.
- American Lithuanian Council.
- Polish American Congress.
- Romanian American National Committee.
- Ukrainian Congress Committee of America.

PURPOSES

CACEED is an organization of American citizens of central and eastern European ancestry whose background, past experience, and blood relations with the captive nations of central and eastern Europe enslaved by the colonial imperialism of the Soviet Union make them the natural standard bearers of the first line of defense against infiltration and subversion by international communism. Fully aware of this mortal danger to freedom and democracy by the sad experience of their formerly democratic countries of origin which have fallen victims to an enemy they, too, had underestimated, American citizens of central and eastern European descent have a special obligation to constantly remind their fellow citizens of this threat to the American way of life and the methods it uses, to combat Communist infiltration and subversion and to safeguard the traditional principles of American democracy against any attack by totalitarian forces.

CACEED, therefore, aims to coordinate the efforts of American citizens of Albanian, Bulgarian, Czechoslovak, Estonian, Hungarian, Latvian, Lithuanian, Polish, Romanian, and Ukrainian descent for the defense of the American way of life against Communist infiltration and subversion, for the liberation of the captive nations of central and eastern Europe, their national self-determination and the restoration of their national independence, and to organize support of American public opinion for these causes.

ORIGIN

The Conference of Americans of Central-Eastern European Descent (CACEED) was organized on January 28, 1956, by representatives of its member organizations, nationwide organizations of American citizens tracing their

descent from 10 nations in central and eastern Europe now behind the Iron Curtain of Soviet imperialism.

ORGANIZATION

CACEED is thus the supreme coordinating body of its member organizations. Its organs are the plenary assembly meeting annually in New York City, its executive committee meeting as often as necessary between plenary meetings, and its standing committees. Liaison on a local level with the local branches of its member organiaztions is maintained through their national representative bodies.

One of the foremost aims and tasks of Americans organized in the conference is to support their fellow citizens in their fight against Communist infiltration and subversion which are steadily increasing. They have at their disposal the vast and bitter experience of refugees from behind the Iron Curtain who have more recently become American citizens, who have learned their lesson regarding the subversive methods of international communism and are willing and able to put this experience into the service of their new country. It is the aim and purpose of CACEED to persuade the general public, the press, and the Government of the United States to make good use of this knowledge and experience before it is too late and not to overlook or underestimate its importance.

In this present cold war the traditional concepts of infiltration and subversion need clarification and understanding. It is not merely outright espionage and propaganda for the overthrow of legal government which endanger American freedom and democracy. Almost equally dangerous is the steady barrage of propaganda for the neutralization of the American mind, public, and press, switching back and forth between threats of atomic annihilation and sweet music of peaceful coexistence for the furtherance of the ultimate aim of Communist world domination. Private organizations like CACEED are hardly able to effectively oppose this well-organized and richly financed Communist undercover attack; CACEED, therefore, supports the establishment of a separate Government agency to uncover, and effectively reply to, Communist propaganda not merely on the international forum, but also on all domestic levels.

In supporting efforts for the liberation of the captive nations of central and eastern Europe American citizens organized in CACEED are fully in accord with aims and policies proclaimed by Presidents John F. Kennedy and Dwight D. Eisenhower, recognizing that the promotion of the self-determination, freedom, and independence of the captive nations of central and eastern Europe is in the enlightened self-interest of the United States and of the entire free world. In his letter to Soviet Premier Bulganin of January 12, 1958, President Eisenhower noted that the Soviet Government was "reluctant to discuss these matters or to treat them as a matter of international concern. But the heads of governments did agree at Yalta in 1945 that these matters were of international concern. * * *" In his speech at Hyannis Port on August 5, 1960, Senator Kennedy stated: "* * * I believe that the area where the Communists are most vulnerable themselves has been in their imperialism in eastern Europe. * * * We look forward to the days when the people of the captive nations will stand again in freedom and justice. * * *" In his state of the Union message on January 30, 1961, President Kennedy reiterated that "we must never forget our hopes for the ultimate freedom and welfare of the eastern European peoples."

The joint Captive Nations Week resolution of the U.S. Congress, approved July 17, 1959, as well as President Eisenhower's Captive Nations Week proclamations, noted that the peoples of the Soviet-dominated nations had been deprived of their national independence and their individual liberties and manifested the support of the Government and the people of the United States for their just aspirations for freedom and national independence. In his speech before a meeting of the Polish American Congress in Chicago on October 1, 1960, Senator Kennedy pilloried Soviet hypocrisy in their attacks on colonialism, while "the fact of the matter is that the greatest slavemaster and colonial power in the world today is the Soviet Union. * * * The Soviet Union * * * holds as a great colonial power not only the Baltic Republics and Poland and Czechoslovakia and Hungary and Bulgaria and Rumania; it holds as a colonial power countries within the boundaries of the U.S.S.R., countries which up to the end of World War I had a long tradition of freedom and independence * * *. It is within the boundaries of the Soviet Union as well as in eastern Europe that the Soviet Union holds under its sway the greatest number of people that any colonial power has held for many, many hundreds of years * * *. These people are determined to be free * * * their culture, their religious heritage,

their traditions cannot be destroyed by domination by a foreign power * * *. As long as that spirit remains alive, whether it is in eastern Europe or whether it is in any other part of the globe, ultimately the Communist empire is doomed to destruction * * *. I want Africa to be free and I want eastern Europe to be free * * *."

The 1960 platforms of both major political parties of the United States supported the liberation of the captive nations of central and eastern Europe "by every honorable and responsible means" (Democratic platform, supported by Senator Kennedy in his Hyannis Port speech of August 5, 1960), or "by every peaceful means" (Republican platform). In his Chicago speech of October 1, 1960, Senator Kennedy amplified this policy: "We recognized after the experience of the fifties the limitations of the so-called policy of liberation. We do not want to mislead the people of Poland or Hungary again that the United States is prepared to liberate them * * *. Our task is to encourage and pursue a policy of patiently encouraging freedom and carefully pressuring tyranny—a policy that to evolution and not toward immediate revolution * * *." Both platforms as well as Senator Kennedy agreed, however, that the limitations of the policy of liberation "by peaceful means" did not mean any recognition of the status quo in central and eastern Europe: "We shall never accept any deal or arrangement which acquiesces in the present subjugation of these peoples" (Democratic platform, 1960); "We do not condone the subjugation of the peoples of Hungary, Poland, East Germany, Czechoslovakia, Rumania, Albania, Bulgaria, Latvia, Lithuania, Estonia, and other once-free nations" (Republican platform, 1960); "We must never, at the summit, in any treaty declaration, in our words, or even in our minds recognize the Soviet domination of eastern Europe as permanent" (Senator Kennedy, Chicago, Oct. 1, 1960).

It is the aim of CACEED to give its support to these ideals and to make every effort within its power to see to it that they be and remain part of the official foreign policy of the U.S. Government, enforced by every honorable and responsible means. For this purpose CACEED must combat the "conspiracy of silence" regarding the fate of the captive nations of Central and Eastern Europe which has recently prevailed in the major part of the American press and the public opinion of the free world, particularly in the United Nations.

As Americans of Central-Eastern European descent we will not cease reminding our fellow citizens that over 35 million Americans of the first and the second generations are immigrants who came to these shores in search of liberty, justice, and the pursuit of happiness, the very same ideals for which the Founding Fathers fought and died. We will not cease reminding our fellow citizens that the American Colonies, in their fight for freedom and independence, enjoyed the welcome and effective support of Europeans such as Lafayette, Pulaski, Kosciuszko, and De Kalb who came to support them in their fight against tyranny confident that the American people would not forget their nations either in their hour of need. The world cannot continue forever to live half free and half slave.

Mr. MACK. Mr. William Leighton.
Do you have a prepared statement?
Mr. LEIGHTON. I do, Mr. Chairman.
Mr. MACK. Very well; you may proceed.

STATEMENT OF WILLIAM LEIGHTON, NEW YORK, N.Y.

Mr. LEIGHTON. Mr. Chairman, I appear here in support of two bills before the committee, H.R. 1078 and H.R. 3460.

Both are bills to amend section 9(a) of the Trading With the Enemy Act.

Mr. Chairman and members of the Committee on Interstate and Foreign Commerce, my name is William Leighton. I am a stockholder of record of Paramount Pictures Corp., one of the corporations which, during 1959, sought to acquire the Ansco Division of the General Aniline & Film Corp.—GAF—through purchase of Interhandel stock.

I have appeared before your Subcommittee on Commerce and Finance on May 24, 1960, in support of H.R. 404 and H.R. 1345 of the

86th Congress. I reaffirm here my statement in support of those bills as applying with equal force today to H.R. 1078 and H.R. 3460, which are now before you.

I appear here with the affirmative support of the owners of 40,685 shares of Paramount who, on June 6, 1961, voted in support of my proposal that Paramount—

> institute suit in the appropriate court for the determination of the liability incurred by Paramount toward the U.S. Government in connection with Paramount's participation, sometime during 1959, in the Bache syndicate for the acquisition of Interhandel stock now vested by the U.S. Government.

This proposal will be resubmitted to the stockholders of Paramount at the 1962 annual meeting and goes to the crux of the matter sought to be resolved by H.R. 1078 and H.R. 3460.

I respectfully urge that these bills be favorably reported out for action by the House at this session of Congress as being in the public interest and of the Government.

The reporting out of these bills would constitute the faithful discharge of this committee's responsibility toward the American investing public generally because the public is now exposed to the secretive and unscrupulous manipulations of a group of speculators in Interhandel stock.

These persons, who now appear to be locked in a situation where the only solution favorable to them seems to be the Government's loss of the 13-year-old section 9(a) suit brought by Interhandel, have sought, in 1959, to unload unregistered and worthless Interhandel stock upon the American public.

Paramount, of which I am a stockholder, was one of their victims.

Without the knowledge or consent of its 25,000 stockholders, Paramount was induced to make, together with other members of the Bache syndicate, an offer to buy Interhandel's outstanding stock for $80 million.

While the transaction was not consummated, it is important to realize that this offer to sell and the offer to buy, both made by the use of the mails and of the instrumentalities of interstate commerce, violated the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940.

Within the contemplation of these statutes, an "offer to sell" or "any attempt to dispose of a security," is a "sale," covered by the acts.

I am here to respectfully urge that your committee exercise supervisory jurisdiction over the administration of these securities statutes that have been violated by Interhandel in the past and that are likely to be violated in the future.

I submit that the reporting out of H.R. 1078 and H.R. 3460 will put a stop to future violations by Interhandel of the Federal securities laws.

A short account of events that have occurred since this matter was last considered by your committee in public hearings on May 24, 1960, will demonstrate the urgent need for action.

1. WHO IS INTERHANDEL?

Interhandel is a Swiss investment company with its main business office at Basel, Switzerland. It is not registered with the SEC as a foreign investment company under section 7(d) of the Investment

Company Act, 15 United States Code, section 80a–7(d), and under the provisions of that section it is not permitted to make use of the mails and of the instrumentalities of interstate commerce for the purpose of making a public offering of its securities within the United States.

Interhandel's 1960 annual meeting was attended by 84 stockholders representing a total of 65,621 shares. Its 1961 meeting was attended by 96 stockholders representing 66,145 shares.

Interhandel shares are bearer stock the owners of which, under the holding of *Ladue* v. *Rogers*, 259 F. 2d 905, cannot claim under section 9(a) unless they were beneficial owners at the time of vesting.

Interhandel's stock represents a claim upon the Government and this was conceded by its new management through the person of a Dr. A. Schaefer; Mr. Schaefer, a Swiss citizen, represents on the board of directors of Interhandel. These resignations may or may Switzerland acting for undisclosed principals.

Swiss banks are traditionally and profitably engaged in the business of acting as trustees for undisclosed principals on the theory that banking secrets are involved. However, as to Interhandel, the law is well settled that this is no excuse for its not disclosing the beneficial ownership of those of its stockholders claiming under section 9(a).

Significantly, on June 30, 1961, a Dr. Rudolf Pfenninger, who is a general manager of Swiss Bank Corp., and a Dr. E. Reinhardt, who is a general manager of Swiss Credit Bank, resigned from the board of directors of Interhandel. These resignations may or may not be connected with the fact that both of these Swiss banks maintain agencies and do business in New York City and, therefore, could be served with process or summons under the Federal Rules of Civil Procedure.

While Dr. Pfenninger had personal status as a representative of the Swiss Government in the negotiations of a settlement, no offer to settle was ever made to the government.

2. THE AMERICAN INVESTING PUBLIC AND INTERHANDEL

During the 13 years since Interhandel has started its 9(a) suit, the American investing public has been subjected to various attempts to unload the Interhandel claim upon it, either through outright sale of the claim, or through the idea of the Bache syndicate buying Interhandel stock as a means toward an end.

While these attempts have not yet been successful, they have achieved their main objective, which is to raise the "market value" of Interhandel's claim on the basis of past offers made for the stock.

The following tabulation will show that the longer the 9(a) litigation, the greater the appraisal of Interhandel's claim:

In 1946–48, Remington Rand, predecessor of Sperry Rand Corp., offered $25 million under "oral option," under Swiss law, litigated within the framework of the 9(a) claim and held not enforcible by the court, *Remington Rand* v. *Societe Internationale* (188 F. 2d 1011).

In 1953, Blair Holdings Corp., for the account of Kuhn Loeb & Co., U.S. Rubber Corp., and Trans-America Corp., offered $60 million

under written contract for the sale of the 9(a) claim if allowed by the Custodian. Not consummated.

In 1959, Bache Syndicate, for the account of Paramount Pictures Corp., W. R. Grade Corp., and Daystrom, Inc., offered $80 million under purchase of Interhandel controlling stock at $809 per share, which price to be applied to the 27,416 shares of Interhandel vested by the Custodian. Not yet consummated.

There is nothing in the Trading With the Enemy Act to suggest that Congress had intended that the section 9(a) procedure should be used as a device for a stock market manipulation in vested property.

Where, as here, the consent of the sovereign United States to be sued for the return of property, alleged to have been wrongfully vested, is abused, the Congress has the prerogative of amending 9(a) so as to make its intent abundantly clear.

In fact, the Supreme Court has so much as invited the Congress to give the act "the most harmonious, comprehensive meaning possible," *Clark* v. *Uebersee Finanz Korporation* (332 U.S. at 488, 489). That is precisely what H.R. 1078 and H.R. 3460 would do.

Furthermore, there is no exemption or exception from the Federal securities statutes in the case of vested stock such as Interhandel. The public is entitled to the protection of those statutes before any "sale" is attempted to be made by the use of the mails and of the instrumentalities of interstate commerce.

Yet no registration of any kind is in effect as to Interhandel at this time, nor was any ever filed with either SEC or the State regulatory agencies.

This is most disturbing, because 10 percent of Interhandel's stock is now in the hands of two broker dealers, Mr. Charles W. Allen, Jr., of Allen & Co., 30 Broad Street, New York, and Mr. Walter C. Floersheimer of Sutro Bros., 120 Broadway, New York.

By standard of section 16(b) of the Securities Exchange Act of 1934, these persons have the status of "insiders."

It may well be that Messrs. Allen and Floersheimer are the first substantial American investors to be the victims of rumor that the Interhandel claim would be settled at a 50–50 rate (1959 hearings, p. 558) or that their purchase would give them standing to claim against the Government under 9(a).

Far more important than their position is that of the American public, the public made up of people whom the securities statutes have been designed to protect. Specifically, the public stockholders of Paramount have suffered most as a result of the manipulation of rumors concerning Interhandel's settlement with the Custodian.

3. HOW THE AMERICAN PUBLIC HAS LOST THROUGH THE SECRETIVE MANIPULATIONS OF THE BACHE SYNDICATE IN INTERHANDEL STOCK

The Bache Syndicate, in which Paramount participated, was formed some time in 1959 with the express purpose of "assuming management responsibility" in Interhandel through outright purchase of Interhandel stock. So much is a matter of record before your committee (1959 hearings, p. 692).

In plain terms, this means that Interhandel had attempted to dispose of its stock to the syndicate on the theory that the syndicate

corporations would then recover the proceeds of the 9(a) suit on a 50–50 basis.

But the syndicate corporations really wanted to acquire part of the GAF, in the case of Paramount the Ansco division.

Thus, after buying the Interhandel stock and theoretically becoming the corporate 9(a) claimants, the syndicate corporations would settle with the Government on condition that they be allowed to buy back at a "public sale," the GAF assets.

Great secrecy surrounded the activities of the syndicate and this was not due to the existence of any rival syndicate.

Interhandel's attorney, Mr. John J. Wilson, refused to give details of the syndicate's arrangements except in executive session. This was not thought necessary by the subcommittee chairman (1959 hearings, p. 616).

At the annual meeting of June 2, 1959, Paramount's president, Mr. Balaban, vaguely referred to Paramount's entering into a field unrelated to motion pictures.

Messrs. Allen and Floersheimer, as 10-percent owners of Interhandel, and as "insiders," called on the Custodian in the presence of Mr. Wilson (1960 hearings, p. 56).

On June 7, 1960, after appearing before your subcommittee on May 24, 1960, I expressly demanded at Paramount's annual meeting that Paramount's involvement in the Bache Syndicate be disclosed to the stockholders. Immediately thereafter, the price of Paramount stock started to firm up on the New York Stock Exchange.

On June 27, 1960, Paramount mailed to its stockholders a summary of the 1960 meeting wherein, for the first time, there was mention of Paramount's interest in the assets of the GAF.

Thereupon, the stock jumped $20 to $65 in the week ending July 1, 1960, and reached $85 at times. It is still within the $65 to $85 price range at the time of this writing.

Here is proof of immediate public reaction to the disclosure of material information affecting the future prospects of Paramount. Anyone who has followed "merger" or "acquisition" rumors in the financial newspapers as affecting a corporation, knows that even if such merger or acquisition has not been consummated, there is a strong likelihood that management still contemplates such steps.

In this case, those stockholders who had been waiting for 10 years for their equity to appreciate 50 percent to $45 failed to realize a truly long-term gain to $65 because they were not in possession of material information concerning their property.

In the week to July 1, 1960, 100,400 shares of Paramount changed hands, more than is being traded for months at times.

But the public stockholders of Paramount did not lose only by selling their equity at less than fair market values for want of material information; they were also induced to approve of a stock option plan at $45 for the benefit of optionee-insiders who knew of Paramount's involvement in the Bache syndicate at a time that such material information was still a "secret."

These insiders had voted themselves on April 14, 1960, a stock option plan on 155,000 shares which gave them, within 6 weeks to July 1, 1960, a paper profit of $3,100,000.

Other than the Bache syndicate situation, there was no development at Paramount during those 6 weeks to warrant an appreciation in equity by 50 percent. Yet that was the free market's violent and lasting reaction.

On June 6, 1961, the owners of 54,022 shares of Paramount voted in favor of my proposal that legal action be initiated to set aside this manipulation in corporate property and stockholders' equity. Such action is due soon.

The example of Paramount should serve as a warning to the stockholders of all other American corporations interested in Interhandel's 9(a) claim.

4. HOW THE GOVERNMENT STANDS TO LOSE BY THE MANIPULATIONS OF BACHE SYNDICATE

It is well settled under the Securities Exchange Act of 1934, that "any attempt to dispose of a security" constitutes a "sale" requiring registration if such sale is made by the use of the mails or of the instrumentalities of interstate commerce, *Hooper* v. *Mountain States Securities Corporation*, 282 F. 2d 195.

It is also well settled under the 1954 amendments to the Securities Act of 1933 that any offer to sell is a "sale" requiring that the buyer be given a prospectus by the seller setting forth substantially all the material information contained in the registration statement.

This procedure gives the buyer a remedy against the seller if false, untrue, or misleading statements were made in such prospectus or registration statement.

There was no registration statement in effect under the Securities Act of 1933 when the Bache syndicate offered to buy for $80 million Interhandel's stock on the strength of Interhandel's offer to sell.

Hence the syndicate corporations were legally barred from "buying" stock which could not be "sold" to them.

Consequently, the "price" of $80 million offered by the Bache syndicate was a fiction, a ghost, that did not exist. Yet that ghost of a price is being urged by Interhandel upon the Government as a measure of the market value of the 27,416 shares of Interhandel stock vested by the Government.

Since that stock is under the control of the Federal court having jurisdiction of the 9(a) suit, it follows that any final judgment disposing of, or returning to Interhandel, such stock, would have to take into account factors bearing upon its market value.

Which standard of value is to apply, that prevailing before the Bache syndicate ever existed when Interhandel stock was priced at $450 per share, or that based on the syndicate's illegal "offer" of $809 per share?

The difference of $359 multiplied by 27,416 results in a potential loss to the Government of $9,842,344 in the final settlement unless the Government now takes steps to protect itself against the manipulations of the Bache syndicate and their lasting effect.

In short, unless the Government amends its pleadings now and seeks to prove the liability to it of the Bache syndicate corporations, there is a strong possibility that the Government will lose heavily in the final settlement because it will be very difficult to prove, 10 years from now, the 1959 manipulations of the Bache syndicate.

Furthermore, if the Government were to prove now an illegal—under the Federal Securities statutes—manipulation of Interhandel stock for the purpose of creating a fictitious price for the vested 27,416 shares, it may well be that Interhandel would be adjudged to be in court with "unclean hands," and thus entitled to no equitable relief with respect to the 9(a) claim, under the doctrine of *Gaudiosi* v. *Mellon*, 269 F. 2d 873. This would result in the Government's winning the case without further trouble and laying the basis of a strong defense to any suit against it in the International Court of Justice.

In conclusion, having enacted section 9(a) of the Trading With the Enemy Act, the Congress has the indisputable prerogative to amend it by enacting H.R. 1078 and H.R. 3460 into positive law.

Interhandel has no standing to challenge this prerogative whether on constitutional or other grounds.

Now, just one postscript, Mr. Chairman, if I may.

The 27,416 shares of Interhandel stock which I have mentioned in my statement constitute stock which was declared as a dividened by the General Aniline & Film Corp. in the past. They declared these dividends so as to be able to reduce the Interhandel's outstanding capital stock.

In other words, Interhandel would rather have its own stock back than the dividends in cash.

These 27,416 shares now vested by the Government have to be priced somehow during the course of this litigation.

That is the crux of this whole suit, Mr. Chairman. That is why they formed the Bache syndicate and you have in your records, Mr. Chairman, the letter from the attorney for the Bache syndicate to the Senate Subcommittee on the Trading With the Enemy Act confirming this fact.

Now, everything that I have said in my statement has occurred after I appeared here last year. I am not repeating whatever I said the last time.

It is in the appendix. However, there is one question which Mr. Dingell asked at the 1959 meeting and I am wondering if I may be permitted to give my answer to it.

I believe, sir, at that time you said:

> Apparently the World Court recognizes from what you tell me that Interhandel and the Swiss Government are really more or less alter egos in their action and you just say they sent Interhandel back to pursue domestic remedies.

This is what Mr. Dingell said to Mr. Wilson.

There was a number of answers. May I give my answer?

Mr. MACK. I was wondering how long it will take?

Mr. LEIGHTON. It will be short, sir.

Interhandel has paid the cost of the Swiss Government action in the International Court of Justice. That has appeared for the record at the 1960 Interhandel meeting. They have instigated the suit. It was instigated upon their application. They were held liable for the costs and they have paid for those costs.

That is the length of my answer, Mr. Chairman, and I thank you.

Mr. MACK. Thank you very much for your statement, Mr. Leighton.

Mr. DINGELL. Mr. Leighton, I think you have made a very fine statement.

Mr. LEIGHTON. Thank you, sir.

Mr. MACK. Paul Neuberger.

Mr. Neuberger, would you like to submit your statement for the record.

Mr. NEUBERGER. I will only make a few short comments in connection with my statement.

Mr. MACK. You may proceed and your prepared statement will be inserted after your oral testimony.

STATEMENT OF PAUL NEUBERGER, NEW YORK, N.Y.

Mr. NEUBERGER. My name is Paul Neuberger. I am a member of the New York bar specializing in the practice of international law, with offices at 16 West 46th Street, New York, N.Y.

I am honorary president of the Association of Yugoslav Jews in the United States, and counsel for the American-Yugoslav Claims Committee, which organizations have authorized me to present their views before this committee in connection with German war damage legislation.

I would like to point out in connection with my written statement a few facts which I consider relevant for the deliberations on the proposed legislation discussed today.

One is that you are dealing with domestic funds which are to be distributed by a domestic agency on the basis of domestic legislation.

This is the main point to be considered when the so-called principle of international law is invoked against equal distribution to all persons who are U.S. citizens at the time the domestic legislation providing for the distribution of the fund is enacted.

I wish to state briefly that this point is not being urged only by the so-called newcomers or citizens who were not citizens at the time of loss.

It has been brought up by very prominent Congressmen and Senators.

In 1949 I was present at a House hearing when the then Congressman John Cabot Lodge, the then Congressman Javits, and many others, pleaded for the remedying of the new situation which arose as a consequence of World War II, the question of relief to victims of Nazi persecution who found a haven in the United States.

Also, in the Senate an amendment was passed in 1950 extending eligibility to all those who were residents of the United States during the war and U.S. citizens at the time that the legislation was enacted.

Furthermore, I want to refer to the act concerning intergovernmental custodial agreements which was enacted as Public Law 857 of the 81st Congress.

I desire to ask if it is true that it is the policy of Congress that claimants, in these circumstances must have been citizens of the United States at the time of loss.

It has been noted that many foreign countries are more liberal in respect to eligibility of claimants.

I don't want to go into all the citations. I have included them in my statement.

I would also refer to Public Law 604–85, which extended eligibility of claimants against Italy and the Italian claims fund to August 9,

1955, without regard to whether the claimant was a citizen of the United States at the time of loss.

The only material qualifications for eligibility in my opinion, should be that the claimant was an American citizen at the time when the legislation providing for distribution of vested funds was enacted.

The Italian amendment—this Public Law 604–85, which passed Congress—was substantially nullified in practice because persons who were U.S. citizens before August 9, 1955, were not permitted to file claims with the Foreign Claims Settlement Commission after the enactment of Public Law 604–85, and thus were excluded from compensation; but a few of those who had filed claims earlier, at the time when they were not supposed to file, when they were not eligible, got 100 percent distribution on their awards and an amendment permitting additional filings which was proposed by Senator Green last year, was opposed by the administration on eligibility grounds.

There is the argument that when the funds are insufficient to satisfy all claimants, only those who were U.S. citizens on date of loss should be eligible.

I wish to refer, again, to the Italian claims fund. One million dollars remains undistributed which the administration recommends be used for purposes other than satisfying the remaining claims of U.S. citizens against Italy. I wish to refer to the fact that before World War II, since 1789, there have been many international claims settlement agreements by the United States and many distributions of funds, but in the average the claimant did not get more than 9.88 percent, around 10 percent.

From the point of view of justice and equity, certain U.S. citizens should not obtain 100 percent compensation while other obtain nothing at all.

This is the nub of the problem.

I wish only to add that certain groups of claimants favor a compromise formula by which all U.S. citizens on the effective date of the enactment of the law would get an initial priority payment on their awards, and, after adjudication of claims, when the total amount of the award would be determined, and one would also know how much money was available, a further legislative determination would be made as to how to divide the balance.

I wish to say in the name of the organizations which I represent here, that if the problem of eligibility cannot be solved in accordance with Senator Keating's bill (S. 956, this session) my organizations would support an amendment with the above compromise formula.

May I express my thanks for being given an opportunity to submit the above views and I sincerely hope they will have your favorable consideration.

Thank you, Mr. Chairman.

Mr. MACK. Thank you.

Mr. NEUBERGER. I also have attached to my statement an extract relative to prior executive agreements and this should be incorporated.

Mr. MACK. Without objection, they will be included in the record at this point.

(The prepared statement and documents referred to follow:)

STATEMENT BY PAUL NEUBERGER OF NEW YORK, N.Y.

Mr. Chairman and members of the committee, my name is Paul Neuberger, and I am a member of the New York bar, with offices at 16 West 46th Street, New York, N.Y. I am the honorary president of the Association of Yugoslav Jews in the United States and counsel for the American Yugoslav Claims Committee, which organizations have authorized me to present their views before this committee in connection with German war damage legislation.

I wish to express my sincere thanks for the opportunity given me to testify before this committee.

I have testified on several occasions on the subject to which I wish again to refer today, namely, the question of the eligibility of claimants to participate in the distribution of funds which are in the United States on the basis of executive agreements, treaties, or domestic legislation.

We are here concerned with the distribution of domestic funds by a domestic agency on the basis of domestic legislation providing for its distribution. These facts are relevant to the eligibility of claimants and whether there should be invoked against the claimants an alleged principle of international law relied upon by the administration, although concededly not applicable, when it again asks in one of the bills considered by your committee that eligibility be restricted to those who were citizens at the time of loss and continuously until the filing of the claim.

In 1949, when the legislation implementing the Yugoslav claims agreement of July 19, 1948, was under deliberation by the Congress (resulting in the International Claims Settlement Act of 1949), many voices were raised on behalf of the persecutees who would be excluded and who should participate in the distribution of the funds. At that time, Representatives John Cabot Lodge, Jacob Javits, and many others opposed the views of the State Department concerning eligibility, and Senator Wiley, of Wisconsin, proposed an amendment, which was adopted by the Senate, according to which all persons who at the time their claims arose were permanent residents of the United States and had declared their intention to become citizens and who, prior to the effective date of an agreement settling their claims, had acquired U.S. citizenship, would be eligible, under the act, in future claims programs. (See S. Rept. 800, 81st Cong., 1st sess. on H.R. 4406). This amendment was dropped in the joint conference of the Senate and the House, leaving the ultimate decision to future legislation.

Again and again the eligibility question has been brought up, but always defeated, sometimes because of the above-cited alleged principle of international law, and sometimes by the argument that the funds being insufficient to compensate all fully, would be unduly diluted by including too many claimants.

If we follow the history of claims legislation since World War II, we see that none of the legal arguments brought against the extension of eligibility can stand as a definite obstacle to the extension of eligibility of claimants.

An extension of eligibility is imperative because of the principles of justice and equity involved and in order not to violate the constitutional rights of American citizens who are all equal before the law, without regard to the date of the acquisition of their citizenship.

The principle that the United States can espouse the claims of only its citizens at time of loss refers, in fact, to the case where the United States intervenes with a foreign government, but does not apply to the case where domestic funds are to be distributed among American citizens on the basis of domestic legislation. There cannot be so-called junior or late citizens if the claimants were citizens on the effective date of the domestic legislation. The principle of citizenship at time of loss cannot be applied, especially, to persecutees who were victims of Nazi oppression prior to and during World War II, who, in their native countries, were treated as "enemy" and who were compelled to flee their countries to find haven in the United States, or face extermination, as history shows.

Peace treaties concluded after World War II declared these persecutees "United Nations nationals," having all of the rights and privileges afforded by these treaties to nationals of allied nations. When these United Nations nationals, having found a haven in the United States, severed all of their ties with

their native countries and pledged their allegiance to the United States, the only protection they could have was that of their new homeland. This protection the administration-sponsored bill is trying to deny, although many of these persons fought in World War II for the United States and lost their sons in fighting Nazi Germany and Japan.

This denial of equal treatment to all U.S. citizens is unjust not only in the view of the claimants, but I wish to refer to the vote of the U.S. Senate on February 14, 1950, which passed the amendment of Hon. Senator Wiley approving a new and more liberal eligibility standard; and to the War Claims Commission which, in its supplementary report of 1953 to the Congress, supported the same views. Further, Public Law 857, 81st Congress, September 28, 1950, embodied the same principles for the purpose of settlement of intercustodial conflicts, by stating:

"The United States as to any intergovernmental agreements hereafter negotiated shall seek treatment equal to that accorded United States nationals for persons who, although citizens or residents of an enemy country before or during World War II, were deprived of full rights of citizenship or substantially deprived of liberty by laws, decrees, or regulations of such enemy country discriminating against racial, religious, or political groups: *Provided*, That on the effective date of *this resolution* such persons were (1) permanent residents of the United States and (2) had conformity with the provisions of the Nationality Act of 1940, as amended; and that such persons shall have acquired citizenship of the United States *prior to the effective date of any intergovernmental agreement hereafter negotiated*." (Emphasis supplied.)

And it cannot be said that the Congress, in enacting this law, wanted to violate an "established principle of international law."

It should be noted that foreign countries such as Belgium and Great Britain did not feel that there was a rule of international law which would prevent them from distributing funds destined for compensation of losses sustained by nationals in foreign countries, to those of their nationals who were not such nationals at the time of loss, but were nationals at the time of the settlement agreement. (See the British order-in-council of 1950 with regard to the agreement with Yugoslavia; also the British foreign compensation bill of 1950 with regard to the agreement with Czechoslavakia.)

I cite the provisions of the British order-in-council implementing the agreement with Czechoslovakia because a clear distinction is made between the agreement with the foreign country in espousing claims of British nationals owned by them "on the date of the agreement and at the date of the relevant Czechoslovak measures," and the domestic legislation as expressed in the foreign compensation order in council, 1950. This order in council extends the right of compensation out of these funds to persons who were British citizens at the time of the agreement and not on the date of the "relevant Czechoslovak measure."

It should also be noted that Congress, in Public Law 604–85, extended the eligibility of claimants against Italy and the Italian claims fund up to August 9, 1955, without regard to whether the claimant was a citizen at the time of loss.

The only material, lawful qualification for eligibility should be that the claimant was an American citizen at the time when the legislation concerning distribution of vested funds is enacted. When the State Department in 1948 invited the registration of claims, it did not require U.S. citizenship, but only the qualifications of a "United Nations national." It is contrary to justice and equity that the requirement to be a U.S. national at the time of loss be decreed retroactively to divest those American citizens who have rights as United Nations nationals, by excluding them from the distribution of the funds.

The only other argument against extension of eligibility is that by the extension of eligibility the funds would be unduly diluted.

A table of all the executive agreements and lump-sum settlements in which the United States was involved since 1878 shows that the percentage allowed on the amounts claimed was in average, 9.88 percent. (See Whiteman, "Damages in International Law," vol. III, app. B, table II, Department of State Publication 2005, 1943.)

Only in the Yugoslav claims program was there a 89-percent quota because more than half of the claims were disallowed, mainly because of the eligibility

limitations imposed by the executive agreement. As a consequence of this executive agreement there are a large number of claimants, American citizens, whose claims are unsatisfied. In England and Belgium claimants have not, up to now, obtained a larger quota than roughly 15 percent, and few of the British subjects who were subjects during the war felt that injustice had been done them because compensation had been given also to those who became British subjects at a later time but before the time of the enactment of the law.

From the point of view of justice and equity, there is no reason why some U.S. citizens should obtain 100-percent compensation, while others should get nothing at all. This is the nub of the problem. As far as international law is concerned, I have already explained above that no applicable principle of international law precludes the eligibility of claimants, who were not citizens at the time of loss, in the distribution of domestic funds.

All these considerations induced Hon. Senator Kenneth B. Keating, of New York, and Senators John A. Carroll, of Colorado, Philip A. Hart, of Michigan, and Paul H. Douglas, of Illinois, to support bill S. 956, introduced in the Senate, which corrects the inequities caused by the restrictions of eligiblity of claimants.

Before concluding my statement, I wish to add that there has been some attempt to devise a compromise formula with regard to the alleged insufficient funds, by which all U.S. citizens on the effective date of the enactment of the law would get an initial priority payment on their awards, and after the adjudication of claims, when the total amount of awards would be determined, a legislative determination would be made as to how to divide the remaining funds. If there is no other way to solve the problem in accordance with justice and equity as expressed in Senator Keating's bill, the organizations I represent would support an amendment with the above compromise formula.

May I express my thanks for being given the opportunity to submit the above views, and I sincerely hope that this will have your favorable consideration.

TABLE II: DOMESTIC OR QUASI-INTERNATIONAL COMMISSIONS AND EN-BLOC SETTLEMENTS

An italic *c* (without period) preceding a figure is the abbreviation used for *circa*.

No.	Commissions: ostensible claimant and respondent governments	Amounts claimed in en-bloc settlements where no figures were listed as to distribution	Amounts claimed before domestic commissions (American money; generally excluding interest)	Amounts allowed by domestic commissions (American money; generally excluding interest)	Percent allowed on amounts claimed	Amounts claimed before domestic commissions in cases where damages were allowed (American money; generally excluding interest)	Percent of recovery in cases where damages were allowed	Number of claims	Number of claims on which damages were allowed	Percent of claims on which damages were allowed	Amounts paid or assumed	Percent paid or assumed of amounts claimed	Percent paid or assumed of amounts allowed	Duration of commissions	Expenses of the United States	Expenses deducted from awards
		Total	*Total*	*Total*		*Total*		*Total*	*Total*		*Total*			*Yrs-Mos-Days*	*Total*	
1	Great Britain *v.* United States, convention of Jan. 8, 1802 and the act of Apr. 22, 1803 (43 Geo. III, ch. 39) (claims on account of impediments to the recovery of debts which failed of settlement under art. VI of the treaty of 1794)	....	(1) $24,014,923.70	(2) $6,304,800.00	26.25	....	....	c215	152	70.70	(3) $2,664,000.00	(3) 11.09	42.25	9-0-0	....	....
2	United States *v.* France, convention of Apr. 30, 1803, arts. II and III (agreement to discharge debts due by France to citizens of the United States contracted before Sept. 30, 1800)	....	(4) c7,017,316.00	(5) 3,738,268.98	53.27	(6) c$3,786,772.00	98.72	530	318	60.00	(7) 3,750,000.00	53.44	100.31	(8) 1-5-0	$22,408.91	No
3	Spain *v.* United States, treaty of Feb. 22, 1819, art. IX (Spanish claims arising out of invasions in Florida by the United States: 1812-13 and 1818 East Florida claims and 1814 West Florida claims)	....	2,835,673.62	(9) 1,133,393.98	39.97	2,735,868.02	41.44	367	223	60.76	(10)	....	....	....	(11)	....
4	United States *v.* Spain, treaty of Feb. 22, 1819, art. XI (claims arising out of spoliations, etc.)	....	(12)	(13) 2,589,309.50	....	(14) 6,127,455.40	(15) 42.26	1,859	425	22.86	(16) 5,000,000.00	....	(17) 91.67	3-0-0	126,701.86	No

(1) £5,408,766 6s. £5,638,629 3s. 1d., or $24,908,989.37 (1 £ equaled $4.44), was the gross amount of the claims submitted to the international commission which sat at Philadelphia. That commission failed to settle the claims.

(2) £1,420,000. 1 £ equaled $4.44.

(3) On the basis of the lump sum of £600,000, or $2,664,000 (1 £ equaled $4.44), paid by the United States to Great Britain under the 1802 convention. £659,493, or $2,928,148.92, was the amount with interest available for the payment of the claims.

(4) c38,159,768 livres (total amount of the claims in all cases where the amount claimed was specified by the claimants). 1 livre equaled $0.1815 U.S.

(5) This was the amount paid by the United States Treasury. The amount as scaled down by the French Council of Liquidation was 18,132,146 livres, including interest, or approximately $3,290,984. See footnote (4) *supra*.

(6) 20,862,869 livres. See footnote (4) *supra*.

(7) "Not to exceed" 20,000,000 francs. (1 Malloy 513, 514.)

(8) The American Board of Commissioners was in session from July 5, 1803 until Dec. 1, 1804. The French Council of Liquidation, which subsequently passed upon the claims, completed its work in 1807.

(9) This was the amount allowed by the Secretary of the Treasury. S. Ex. Doc. 82, 33d Cong., 1st sess., pp. 13 *et seq.* The judges in Florida awarded $1,220,871.28.

The data on these claims may be summarized as follows:

Group	Number of claims	Amounts claimed	Amounts awarded by judges	Amounts as revised by the Secretary of the Treasury
1812-13 and 1818, E. Fla.	324	$2,731,085.93	$1,190,459.61	$1,106,880.61
1814, W. Fla.	43	104,587.69	$30,411.67	26,513.37
Total	367	$2,835,673.62	$1,220,871.28	$1,133,393.98

(10) Indefinite amount.
(11) The claims were passed upon by judges in Florida and by the Secretary of the Treasury.
(12) $16,480,337.73 was stated to have been claimed in 711 cases.
(13) In 296 claims. The total amount awarded in all claims was $5,454,545.13.
(14) In 296 claims where damages were allowed. $2,589,309.50 was allowed in the same 296 claims.
(15) In 296 claims where the amounts claimed were stated.
(16) Under art. XI of the treaty. (2 Malloy 1651, 1655.)
(17) On the basis of $5,454,545.13. See footnote (13) *supra*.

TABLE II: DOMESTIC OR QUASI-INTERNATIONAL COMMISSIONS AND EN-BLOC SETTLEMENTS—Continued.

No.	Commissions: ostensible claimant and respondent governments	Amounts claimed in en-bloc settlements where no figures were listed as to distribution	Amounts claimed before domestic commissions (American money; generally excluding interest)	Amounts allowed by domestic commissions (American money; generally excluding interest)	Percent allowed on amounts claimed	Amounts claimed before domestic commissions in cases where damages were allowed (American money; generally excluding interest)	Percent of recovery in cases where damages were allowed	Number of claims	Number of claims on which damages were allowed	Percent of claims on which damages were allowed	Amounts paid or assumed	Percent paid or assumed of amounts claimed	Percent paid or assumed of amounts allowed	Duration of commissions	Expenses of the United States	Expenses deducted from awards
		Total	*Total*	*Total*		*Total*		*Total*	*Total*		*Total*			*Yrs-Mos-Days*	*Total*	
5	United States v. Great Britain, convention of Nov. 13, 1826 (arranged to carry out terms of art. I of the Treaty of Ghent, Dec. 24, 1814; payment for slaves and other property carried away or destroyed)	....	(18) c$1,595,419.65	$1,197,422.18	75.06	....	....	1,060	876	82.64	(19) $1,204,960.00	75.53	(20) 100.63	1-9-0	$24,653.31	No
6	United States v. Denmark, convention of Mar. 28, 1830 (claims arising out of the seizure, detention, or confiscation of vessels or property during the Napoleonic Wars)	....	(21) 2,662,280.36	2,154,436.00	80.92	....	....	647	489	75.58	(22) 670,546.70	25.19	31.12	3-0-0	29,494.87	No
7	United States v. France, convention of July 4, 1831 (spoliation claims which arose during the Napoleonic Wars)	....	(23) 51,934,170.15	9,362,193.27	18.06	....	....	3,148	1,567	49.78	(24) 5,558,108.07	10.72	(25) 59.36	3-6-0	35,330.78	....
8	United States v. Kingdom of the Two Sicilies, convention of Oct. 14, 1832 (spoliation claims which arose during the Napoleonic Wars)	....	(26) 2,032,920.98	(27) 880,834.23	(27) 43.35	....	....	400	267	66.75	(28) 1,766,025.00	....	(29) 91.74	1-6-0	21,381.81	No
9	United States v. Spain, convention of Feb. 17, 1834 (Van Ness Convention) (claims that arose subsequent to the treaty of Feb. 22, 1819, including claims that arose during the war between Spain and her American colonies)	....	(30) c2,600,000.00	(31) 466,909.56	17.96	....	....	102	68	66.66	(32) 600,000.00	23.08	(31) 128.53	1-6-0	13,273.45	....
10	United States v. Peru, convention of Mar. 17, 1841; distribution under act of Aug. 8, 1846, 9 Stat. 80 (claims on account of seizures, etc., of vessels and cargoes)	....	1,232,367.79	421,432.41	34.19	$1,156,385.54	36.45	33	26	78.79	(33) 394,989.83	32.05	93.73	1-0-0	(34) 3,000.00	Yes
11	Belgian Commission established in conformity with the law of May 1, 1842 (for the liquidation of losses sustained during the Belgian Revolution of 1830)	(35) $3,632,230.00	....	....	....	....	....	(36)	....	....	(37) 1,520,000.00	41.85	....	3-10-15	....	....
12	United States v. Mexico, treaty of Feb. 2, 1848, arts. XIV and XV (all claims against Mexico not theretofore decided)	....	11,536,270.29	(38) 1,668,370.73	27.81	(39) 8,505,177.66	(40) 19.61	292	198	67.81	(41) 3,250,000.00	28.17	(42) 101.30	3-0-0	57,825.56	No

(18) "Total of average and estimated value" of slaves and property.

(19) Arts. I and III of the convention. (1 Malloy 641, 642.)

(20) There was an excess of $7,537.82 which was distributed to the claimants.

(21) Estimated.

(22) $450,000 of this amount represented the principal amount received from Denmark, and the remainder represented interest.

(23) Including interest.

(24) France agreed to pay 25,000,000 francs. The indemnity, including interest, amounted to $5,558,108.07 when paid.

(25) *See* H. Ex. Doc. 182, 26th Cong., 1st sess.

(26) In 129 claims where the figures are available. The total amount claimed is unavailable.

(27) In the 129 claims where the amount claimed is available. The total amount awarded, including interest, on all claims was $1,925,034.68.

(28) 2,115,000 Neapolitan ducats. 1 Neapolitan ducat equaled $0.835 U.S.

(29) On the basis of $1,925,034.68. See footnote (27) *supra*.

(30) Claims of which notice had been given in January 1837.

(31) This figure is based on the amount of the original awards on the merits of the claims. The amount paid to the claimants was increased to $599,850.24 by adding to the amount awarded the surplus of the fund available for distribution.

(32) 12,000,000 rials vellón with interest at 5 percent.

(33) Including interest. The principal amount agreed to be paid was $300,000.

(34) The claims were referred to the Attorney General for settlement on their merits.

(35) 19,117,000 francs (in round numbers). 1 franc equaled $0.19.

(36) There were at least 9,275 claims.

(37) The law of May 1, 1842 of Belgium set aside 8,000,000 francs for the payment of the claims. See footnote (35) *supra*.

(38) In 141 cases where the amount claimed is available. The total amount awarded in all claims was $3,208,314.96.

(39) In 141 cases.

(40) In 141 cases.

(41) 1 Malloy 1107, 1114.

(42) On the basis of $3,208,314.96. See footnote (38) *supra*.

TABLE II: DOMESTIC OR QUASI-INTERNATIONAL COMMISSIONS AND EN-BLOC SETTLEMENTS—Continued.

No.	Commissions: ostensible claimant and respondent governments	Amounts claimed in en-bloc settlements where no figures were listed as to distribution	Amounts claimed before domestic commissions (American money; generally excluding interest)	Amounts allowed by domestic commissions (American money; generally excluding interest)	Percent allowed on amounts claimed	Amounts claimed before domestic commissions in cases where damages were allowed (American money; generally excluding interest)	Percent of recovery in cases where damages were allowed	Number of claims	Number of claims on which damages were allowed	Percent of claims on which damages were allowed	Amounts paid or assumed	Percent paid or assumed of amounts claimed	Percent paid or assumed of amounts allowed	Duration of commissions	Expenses of the United States	Expenses deducted from awards
		Total	*Total*	*Total*		*Total*		*Total*	*Total*		*Total*			*Yrs-Mos-Days*	*Total*	
13	United States v. Brazil, convention of Jan. 27, 1849 (prize and other claims)		(43) $1,319,329.96	(44) $418,073.55	31.68	(45) $641,865.16	65.16	38	25	65.79	(46) $222,535.96	34.44	77.15	3-0-0	$11,817.70	No
14	United States v. China, convention of Nov. 8, 1858 (claim arising out of the burning of the foreign settlement in Canton)		1,513,707.53	(47) 489,694.78	32.35	1,238,934.10	39.49	56	48	85.71	(48) 735,238.97	48.59	(49) 150.14	0-3-0	3,330.60	No
15	United States v. Great Britain, act of Congress approved June 23, 1874 (First *Alabama* Claims Commission established to distribute the Geneva award of Sept. 1, 1872 under arts. I to XI of the treaty of May 8, 1871)		14,490,316.99	9,316,120.25	64.28			2,068	1,786	86.36	(50) 15,500,000.00	(51) 36.43	(51) 53.49	3-6-6	253,221.13	Yes
16	United States v. Great Britain, act of Congress approved June 5, 1882 (Second *Alabama* Claims Commission established to distribute the remainder of the Geneva award)		(52) 28,061,096.90	19,656,960.55	70.05			5,770	5,294	91.75	(50a)	(51a)	(51a)	3-6-0	693,338.07	Yes
17	United States v. Spain, Feb. 27, 1875 (claims arising out of the seizure, etc., of the officers, crew, and passengers of the S.S. *Virginius*)	$98,050.00									80,000.00	81.59				
18	United States v. Great Britain, agreement of May 28, 1881 (Fortune Bay Claims)	105,306.02									(53) $72,900.00	69.23				
19	France v. Chile, convention of Nov. 2, 1882 and protocol of Nov. 26, 1887 (claims arising out of acts of Chilean forces in Peru and Bolivia during war)	c3,400,000.00						(54)			(55) 294,600.00	8.66				Yes (8%)
20	Portugal v. Chile, protocol of Nov. 19, 1888 (claims growing out of war)	159,840.40						(56)			6,874.00	4.30				
21	France v. Chile, agreement of Feb. 2, 1896 (claims arising out of civil war in 1891 in Chile)	(57) 104,464.72									(58) 24,332.50	23.29				

(43) The amount claimed in 35 cases where the amount claimed is available. The amount was computed on the basis of 1 gold milreis as the equivalent of $0.545 U. S.

(44) The amount allowed originally in 25 cases on the merits.

(45) In 24 cases allowed, where the amount claimed was stated.

(46) 330,000 milreis. See footnote (43) supra.

(47) Including interest.

(48) 500,000 taels on which there was realized $735,238.97, excluding interest.

(49) After deducting the amount of certain other claims from the amount of the fund, the sum of $453,400.90 was remitted to China on Apr. 24, 1885 pursuant to the act of Congress approved Mar. 3, 1885. (23 Stat. 436; 1885 For. Rel. 183.)

(50) The amount received from Great Britain under the terms of the Geneva award—$15,500,000—was invested by the United States and bore interest until June 30, 1877. After making the payments under the terms of the act of June 23, 1874 (First *Alabama* Claims Commission awards), there remained in the Treasury to the credit of the *Alabama* Claims Fund the following amounts:

"Balance in the Treasury, Geneva award fund, available for future distribution as provided by law	$9,703,904.89
"Carried into the Treasury as miscellaneous receipts, for coin premiums on bonds sold ($7,500,000)	344,393.88
"Currency premiums on same	40,706.19
Total	$10,088,004.96"

(50a) See footnote (50).

(51) On the basis of $15,500,000 and the amounts claimed before the First and Second *Alabama* Claims Commissions.

(51a) The percentages of the First and Second *Alabama* Claims Commissions are computed as a unit.

(52) The jurisdiction conferred on the Second *Alabama* Claims Commission included jurisdiction over claims for (1) damage done by the exculpated cruisers and (2) damage in the nature of war premiums. The judgments made in favor of class (1) were to be paid first from the available fund.

Of the claims in class (1), there were 1,649 in the amount of $10,530,503.01. On these claims, awards were made in 1,372 claims in the amount of $3,346,016.32. These awards were paid in full.

Of the claims in class (2), there were 4,121 in the amount of $17,541,493.89. The awards in this group of claims amounted to $10,705,371.43, excluding interest, or $16,312,944.53, including interest, in 3,922 claims.

(53) £15,000. 1 £ equaled $4.86 U. S.

(54) There were 59 claims.

(55) $300,000 Chilean. 1 Chilean dollar equaled $0.982 U. S.

(56) 21 claims.

(57) The claims of France amounted to 344,041.18 Chilean pesos plus 324,326 francs, or $41,869.81 plus $62,594.91, or a total of $104,464.72 (calculating 1 Chilean peso at $0.1217 U. S. and 1 franc at $0.193 U. S.)

(58) £5,000. 1 £ equaled $4.8665.

TABLE II: DOMESTIC OR QUASI-INTERNATIONAL COMMISSIONS AND EN-BLOC SETTLEMENTS—Continued.

No.	Commissions: ostensible claimant and respondent governments	Amounts claimed in en-bloc settlements where no figures were listed as to distribution	Amounts claimed before domestic commissions (American money; generally excluding interest)	Amounts allowed by domestic commissions (American money; generally excluding interest)	Percent allowed on amounts claimed	Amounts claimed before domestic commissions in cases where damages were allowed (American money; generally excluding interest)	Percent of recovery in cases where damages were allowed	Number of claims	Number of claims on which damages were allowed	Percent of claims on which damages were allowed	Amounts paid or assumed	Percent paid or assumed of amounts claimed	Percent paid or assumed of amounts allowed	Duration of commissions	Expenses of the United States	Expenses deducted from awards
		Total	*Total*	*Total*		*Total*		*Total*	*Total*		*Total*			*Yrs-Mos-Days*	*Total*	
32	Germany, France, Denmark, Norway and Sweden, Portugal, and Japan v. Great Britain and the United States, convention of Nov. 7, 1899 and subsequent agreements (Samoan claims)	(59) $145,183.33									(59) $49,443.38	34.06				
33	Austria-Hungary, Belgium, Denmark, France, Germany, Greece, the Netherlands, Russia, Italy, Spain, Sweden and Norway, and Switzerland v. Great Britain; settlements of 1905 (for deportations, etc., during the Boer difficulties; settled by the South African Deportation Compensation Commission)	(60) 5,294,737.00						(61)			(62) 490,617.00	9.27				
34	United States v. Great Britain, 1901 (South African deportation, etc., claims arising during Boer War)		$53,723.39	$24,300.66	45.23			(63) 15	10	66.67	(64) 29,208.00	54.37	120.19		(65) $4,907.34	Yes
35	United States v. Spain, treaty of Dec. 10, 1898, art. VII, and the act of Congress approved Mar. 2, 1901, 31 Stat. 877 (claims that arose "since the beginning of the late insurrection in Cuba")		64,931,094.51	1,387,845.74	2.14	$24,316,612.76	5.71	542	86	15.87	(66)			(67) [illegible]	(68) 1,142,828.75	No
36	United States v. China, protocol of Sept. 7, 1901 (Boxer indemnity claims)		(69) 3,508,006.16	(70) 1,550,009.62	44.35			(69) 233	(69) 215	92.48	(71) 2,000,000.00	(72) 56.96	129.03	0-8-15	14,941.85	No
37	Samoan claims of citizens of the United States; act of Congress approved June 23, 1910 (claims which arose in 1899 in and about the town of Apia)		(73) 64,677.88	14,811.43	22.90	37,032.35	39.99	25	15	60.00	(74)			0-6-0	(75) 750.00	No
38	Nicaraguan Mixed Claims Commission, 1911-15		(76) 8,316,027.87	(76) 623,781.88	7.48			(77)	(78)		(79)			3-6-0		
39	Dominican Claims Commission, created June 26, 1917		(80) 16,960,513.48	(80) 4,292,343.53	25.31	(80) 8,815,902.01	48.70	(80) 9,026	(80) 6,287	69.66						

(59) Excluding the claims of American and British nationals.

(60) £1,089,450. 1 £ equaled $4.86 U. S. The figure does not include the claims of the United States.

(61) 1,617 claims.

(62) £100,950. See footnote (60). The figure does not include the claims of the United States.

(63) However, only 13 claims were pressed before the Department of State.

(64) £6,000. 1 £ equaled $4.8680 U. S.

(65) The claims were referred to the Solicitor of the Department of State for adjudication, and Assistant Solicitor Van Dyne made the recommendations as to the distribution of the indemnity. The amount of $4,907.34 was paid to R. Newton Crane "for service and expenses" in connection with the negotiation of the lump-sum payment of £6,000.

(66) There was no limitation placed upon the extent of the liability assumed by the United States for the claims of its citizens against Spain under the treaty of Dec. 10, 1898.

(67) The act approved Mar. 2, 1901 provided that the commission should complete its work within 2 years, but that the President might extend the period from time to time, not exceeding 6 months in each instance. (31 Stat. 877, 880.)

(68) There were 5 commissioners. An Assistant Attorney General and assistant attorneys defended the claims.

The expenses of the commission amounted to	$594,720.87
The expenses of the defense of the claims amounted to	548,107.88
Total	$1,142,828.75

(69) Claims of citizens of the United States.

(70) By the commission and the Department of State.

(71) This was the amount set aside in the Treasury of the United States as a trust fund for the payment of the claims. The share of the United States in the indemnity agreed to be paid by China to the powers was $24,440,778.81 plus interest.

(72) On the basis of the amount estimated ($2,000,000) to pay the claims.

(73) In 24 claims where the amount claimed was stated.

(74) There was no limit as to the extent of the liability of the United States.

(75) These claims were settled by the Solicitor's Office of the Department of State. Mr. Joseph R. Baker was in charge of the settlement.

(76) In 417 foreign claims. The awards were stated in cordobas. A cordoba (C$1.00) was estimated as the equivalent of $1 U. S.

(77) 417 foreign claims.

(78) The total number of foreign claims allowed does not appear.

(79) Apparently no limitation.

(80) Including claims of Dominican nationals.

TABLE II: DOMESTIC OR QUASI-INTERNATIONAL COMMISSIONS AND EN-BLOC SETTLEMENTS—Continued.

No.	Commission; ostensible claimant and respondent governments	Amounts claimed in en-bloc settlements where no figures were listed as to distribution	Amounts claimed before domestic commissions (American money; generally excluding interest)	Amounts allowed by domestic commissions (American money; generally excluding interest)	Percent allowed on amounts claimed	Amounts claimed before domestic commissions in cases where damages were allowed (American money; generally excluding interest)	Percent of recovery in cases where damages were allowed	Number of claims	Number of claims on which damages were allowed	Percent of claims on which damages were allowed	Amounts paid or assumed	Percent paid or assumed of amounts claimed	Percent paid or assumed of amounts allowed	Duration of commissions	Expenses of the United States	Expenses deducted from awards
		Total	*Total*	*Total*		*Total*		*Total*	*Total*		*Total*			*Yrs-Mos-Days*	*Total*	
30	Bulgaria v. Greece, submitted to the Council of the League of Nations, Oct. 23, 1925 (boundary incident)	(81) $378,000.00									(82) $144,000.00	38.09				
31	Canadian Royal Commission on Illegal Warfare Claims, 1921 and following (civilian claims against Germany under arts. 231 and 232 of the Treaty of Versailles)		(83) $64,339,457.43	(84) $4,184,601.19	6.50	$23,069,808.79	17.66	1,613	1,286	79.65						
32	War Claims Arbiter, appointed pursuant to the Settlement of War Claims Act of 1928, 45 Stat. 254 (claims of German, Austrian, and Hungarian nationals for ships seized, radio stations and patents used or sold by the U. S. during the World War)		(85)c1,150,000,000.00	(86) 87,704,806.33	7.63			1,180	582	49.32	(87) 101,000,000.00	8.78	115.16	3-0-0	$136,806.00	(88) Yes
33	Commission for the Adjustment of British Claims for the use of inventions, 1922-23, under sec. 3 of the act of Mar. 3, 1919, 40 Stat. 1272, 1273 (claims against the U. S.)		1,809,437.33	255,500.00	14.12	1,187,421.73	21.53	(89) 14	7	50.00	(90)			7-6-0	(91) 13,000.30	
34	*Sudden & Christensen, Inc.* (U. S. v. Gt. Br.), agreement of May 19, 1927 (S. S. *Edna* claim)		(92) 670,807.20	(93) 103,774.35	15.47	(92) 670,807.20	15.47	1	1					3-6-0		
35	United States v. Turkey, agreement of Oct. 25, 1934, pursuant to the exchange of notes of Dec. 24, 1923 and Feb. 17, 1927; domestic commission under act of Mar. 22, 1935, 49 Stat. 67		(94) 19,711,304.70	(92) 899,338.09	4.56	(92) 5,640,122.52	15.94	894	31	3.73	1,300,000.00	6.59	144.55	(94) 2-3-0	(95) 20,932.30	Yes
36	United States v. Mexico, convention of Apr. 24, 1934, act of Congress, Apr. 10, 1935, 49 Stat. 149 (Special Claims: claims arising out of revolutionary disturbances, 1910-20)		(92) 219,271,809.45	9,135,041.79	4.16	(92) 83,904,142.85	10.89	2,833	1,358	49.93	(96) 5,448,020.14	2.48	59.64	3-9-0	341,560.10	Yes
	GRAND TOTAL		(97) 1,700,149,726.04	(98) 108,044,096.26	(99) 9.88	(1) 172,450,798.99	(1) 17.90	(2) 22,990	(2) 21,644	(3) 65.67	(4) 153,876,608.37	(5) 9.47	(6) 93.62	(7) 71-6-0	(8) 2,731,730.88	
	AVERAGE		(97) 68,005,989.04	(98) 6,721,702.65	(99) 9.88	(1) 11,497,319.93	(1) 17.90	(2) 1,267.09	(2) 832.40	(3) 65.67	(4) 5,699,126.33			(7) 3-11-21.30	(8) 130,606.33	

(81) 82,300,000 levas. 1 gold leva equaled $0.0072 U.S.

(82) 20,000,000 levas. See footnote (81) supra.

(83) The amount claimed in 1,502 cases wherein the amount claimed was stated. The figure does not include the amounts claimed in claims for the maltreatment of prisoners of war; the amounts claimed in those cases were generally unstated.

(84) The amount allowed in the same 1,502 cases. In 1,613 claims presented (not including claims for maltreatment of prisoners of war), $4,346,806.75 was allowed which with interest at 5 percent to Mar. 10, 1928, in the amount of $2,042,520.59, made a total amount of $6,389,399.34 allowed.

(85) An estimate, including interest.

(86) Including interest; $62,784,826.09 was allowed, excluding interest.

(87) By the terms of the Settlement of War Claims Act, the limitation upon the amount payable was as follows:

Germany—$100,000,000, less expenses and consideration paid.
Austria and Hungary—$1,000,000, less similar deductions.

(88) Under sec. 6 of the War Claims Act of 1928, the arbitrator decided that 83 percent of the expenses should be borne by the German Special Deposit Account; 16 percent by the Austrian Special Deposit Account; and 1 percent by the Hungarian Special Deposit Account.

(89) There were 17 claims originally; 3 claims were withdrawn.

(90) There was no limitation upon the amount allowable.

(91) The expense incurred by the War Department.

(92) Including interest.

(93) The principal amount awarded was $78,025.83. The question of interest was left open. Congress appropriated $78,025.83 plus $25,748.52 as interest.

(94) Approximately.

(95) There was also expended at Istanbul (where the agreement for the amount of the lump sum to be paid by Turkey was negotiated) the sum of $19,953.05.

(96) The amount "in settlement of the claims classified by the Joint Committee as special claims".

(97) In 25 instances. The figure does not include instances nos. 4 and 8.

(98) In 23 instances. The figure does not include instances nos. 4 and 8. It includes the total amount awarded in no. 12, i. e. $5,206,314.96.

(99) In 25 instances.

(1) In 15 instances. The amount allowed in the same 15 instances was $30,700,800.33, or an average of $2,046,720.02.

(2) In 28 instances.

(3) In 26 instances.

(4) In 27 instances.

(5) In 25 instances wherein amounts claimed are available (excluding no. 8 and combining nos. 15 and 16) and wherein the total amount claimed was $1,553,546,657.28, and the total amount paid or assumed was $147,110,383.44.

(6) In 18 instances wherein amounts allowed are available (combining nos. 15 and 16) and wherein the total amount allowed was $161,504,539.41, and the total amount paid or assumed was $151,198,622.60.

(7) In 24 instances.

(8) In 21 instances. The average cost of each claim adjudicated was $125.27 in 21,720 claims, the number of claims where the amount of the expenses is available.

Mr. MACK. Mr. Masaoka.

STATEMENT OF MIKE M. MASAOKA, WASHINGTON REPRESENTATIVE, JAPANESE AMERICAN CITIZENS LEAGUE, WASHINGTON, D.C.

Mr. MASAOKA. Lest there be any qualms on your part, my summation will be very short, Mr. Chairman.

Mr. MACK. To be quite truthful about it, we are quite limited and would like to at least give the people who are present today, many of whom are from out of town, an opportunity to appear personally.

Mr. MASAOKA. My name is Mike Masaoka, of the Japanese American Citizens League.

Presently before this subcommittee are two problems which are remaining from World War II. One is that of war claims. The other is that of amending the Trading With the Enemy Act to return private property sequestered during and after World War II.

I would suggest that both of these problems could be resolved by the subcommittee and, insofar as the War Claims Act is concerned, rather than taking the time of the committee, I would simply like to say that we generally support the minority views which were presented by your colleague at the time of your report of February 18, 1960.

At the same time, as the minority points out, if lump-sum payments such as those secured from Italy are not available for payment of war claims, some other appropriate method of financing the program ought to be secured.

In the light of the bill presented by your colleague, Mr. Cunningham, H.R. 8305, we would like to suggest that this appropriate source of funds would be the postwar economic repayments from both Germany and Japan.

Up to this time bills of this nature have been introduced. Only Germany had made specific agreements with the United States for the repayment of their postwar economic assistance.

On June 10 of this year, in Tokyo, the Ambassador of the United States to Japan and the Japanese Prime Minister initiated a memorandum agreement which provides for the return of this postwar economic assistance.

We, therefore, Mr. Chairman, in the light of the stated views of H.R. 3805, suggest this would be an appropriate means for taking care of not only the war claims payments, but also the return of vested property to private former German and Japanese owners.

Thank you, Mr. Chairman.

Mr. MACK. Thank you very much.

Are there any questions?

(Mr. Masaoka's prepared statement follows:)

STATEMENT OF JAPANESE AMERICAN CITIZENS LEAGUE ON RETURNING WORLD WAR II SEQUESTRATED PRIVATE PROPERTY

Mr. Chairman and members of the subcommittee, my name is Mike Masaoka, with offices at 919 18th Street NW., Washington, D.C. This morning, I am testifying as the Washington representative of the Japanese American Citizens League (JACL), the only national organization of Americans of Japanese ancestry, with members and chapters in 32 States, the District of Columbia, and

Japan. All of our members are native born or naturalized citizens; most, but not all, are also of Japanese ancestry.

According to the notice sent us by the subcommittee, the bills under consideration at these hearings relate to the War Claims Act and the Trading With the Enemy Act.

Ever since 1950, when JACL became aware of this problem, our biennial national conventions unanimously have mandated, as an integral part of our national legislative program, the enactment of legislation to return to their lawful owners, or successors in interest, the private personal and corporate property sequestrated during and after World War II under authority of the Trading With the Enemy Act. Our 15th biennial national convention, meeting in Sacramento, Calif., last summer reaffirmed this legislative goal unanimously.

JACL adopted this position not only because fundamental American and free enterprise concepts are involved, but also the private property of American citizens and the international integrity and good will of the United States, especially insofar as Japan is concerned.

JACL, as an organization, has no claim for the return of any property, represents no individual or group of claimants, and has no monetary interests in this legislation. Many of our members, however, do have individual claims.

Our comments on the various bills pending before this subcommittee will be based upon this continuing mandate, and will not be as legislative technicians or legal experts but as interested laymen concerned with the basic principles and their implications for our Nation and our foreign policy.

As such, JACL endorses the stated objectives of H.R. 8305, "to provide funds to pay nationals of the United States who have war damage claims against Germany and Japan, without additional direct appropriations therefor, and to amend the Trading With the Enemy Act and the War Claims Act of 1948, as amended," which was introduced on July 24, 1961, by Congressman Glenn Cunningham, of Nebraska.

As we understand H.R. 8305, it (1) provides compensation for World War II damages to American property caused by the German and Japanese military, and (2) authorizes the return in kind or in lieu thereof money payments equal to the private property vested under the Trading With the Enemy Act, (3) from a special fund to be composed of both the liquidated proceeds of sequestrated assets and the postwar economic assistance repayments from Germany and Japan. A bill similar to this was approved by the Senate Judiciary Committee as long ago as July 1956.

As in the past, JACL would prefer that the problems of returning vested property and of paying war claims be considered separately on their respective individual merits.

However, this subcommittee is also considering at this time H.R. 7283, introduced on May 24, 1961, by the chairman of this subcommittee (Peter F. Mack, Jr., of Illinois), and H.R. 7479, introduced at the request of the administration on June 6, 1961, by the chairman of the parent Committee on Interstate and Foreign Commerce (Oren Harris, of Arkansas), both proposing to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses from the liquidated proceeds of private sequestrated property. Legislation similar to H.R. 7283 was passed by the House last session but was amended into a war claims registration bill and reported by the Senate Judiciary Committee. The revised bill was not acted upon by the Senate prior to adjournment last year.

Inasmuch as the payment of war damage claims and the return of vested private assets remain as the two outstanding unresolved remaining issues of World War II within the jurisdiction of this subcommittee, and inasmuch as these two matters have become linked together in the minds of many, JACL submits that political reality dictates that both of these subjects be considered as a single combination legislative package as represented by H.R. 8305.

It may be that this still new administration has not had an opportunity to report its definitive attitude on private property return to this subcommittee because H.R. 8305, which suggests this national policy, was introduced less than 10 days ago. If this be so, we respectfully urge that this subcommittee postpone final consideration of these bills until a later and more appropriate time. Far too much is at stake to require precipitate action.

75891—61——15

I. VESTED JAPANESE PRIVATE PROPERTY

Statement emphasis on Japanese property

Although the total of Japanese seized private assets amounts to less than $75 million, or less than a fourth of that sequestrated from the Germans, and although some of the circumstances relating to these vested holdings differ, JACL submits that the reasons and arguments for returning this Japanese property are just as cogent and compelling as those for the return of German property.

At the same time, however, understandably, this statement will concentrate on aspects of the sequestrated Japanese private property, from the standpoint of Americans of Japanese ancestry residing in this country. We cannot—and do not—speak for the Japanese Government, or for the Japanese nationals and corporations whose properties are also at stake in these hearings, though we are aware that their interests probably are identical with ours in this respect.

Moreover, inasmuch as 1961 marks the beginning of a new session of the Congress and of a new administration, much of what we have testified to at prior hearings in both the House and the Senate will be reviewed in the hope that the information will be both informative and persuasive.

Not all property "Japanese"

There is a general misconception in the public mind, and a tendency on the part of many interested parties, to assume that this vested private property was taken only from Japanese nationals and Japanese corporations.

While such vestings do represent the bulk of the sequestrated private property, the substantial interest of native-born and naturalized Americans of Japanese ancestry should not be discounted.

As members of this subcommittee are aware, resident alien Japanese lawfully admitted for permanent residence up to July 1, 1924 (when the Exclusion Act was enacted), were not eligible for naturalization under our Federal statutes. As a consequence, through no fault of their own, they were automatically classified as "enemy aliens" following the outbreak of war. It was not until the enactment of the Immigration and Nationality (Walter-McCarran) Act of 1952 that these resident alien Japanese qualified for naturalization, and most have now become naturalized citizens of the United States. But, because of their "enemy" status during the war, many of them had their properties vested by the Alien Property Custodian.

A number of native-born Americans of Japanese ancestry who had never left the United States prior to military service with our Armed Forces had their property vested on the allegations that they were "cloaking" such properties for nationals in Japan.

Many U.S. citizens, stranded in Japan during hostilities but since returned to this country, had their property seized. Still others who lost their citizenship through technicalities or operation of law and who have since regained or reacquired citizenship are unable to recover their property which was taken away while they too were stranded in Japan.

Many more U.S. citizens of Japanese ancestry, residing in this country, named beneficiaries in Japan for insurance policies, estates, trusts, bequests, etc. An anomaly in this situation is pointed up in the case of certain life insurance benefits. A number of American soldiers of Japanese ancestry were killed in the European and Pacific theaters, and our grateful Nation paid their national service life insurance benefits to their parents who were residing in Japan. At the same time, however, our Government vested all other life insurance benefits paid out by private companies to these same beneficiaries.

As for these estates, trusts, and bequests, since American citizens named beneficiaries in Japan, our Government vested them, and these U.S. citizens may not now recover these properties by revoking their arrangements.

There are also the so-called debt claims of more than 20,000 native-born and now naturalized Americans of Japanese ancestry who made prewar deposits for yen in a number of Japanese banks. The various State banking commissioners liquidated these institutions and paid off the dollar depositors, with the Alien Property Custodian vesting the remaining assets which were for the purpose of paying these yen deposits in dollars.

These examples are cited to indicate that, contrary to the popular impression, not all of this sequestrated property belonged only to Japanese nationals and Japanese companies; much of it was taken from native-born citizens and resident aliens who, under law, could not avoid being designated as "enemy aliens."

Moreover, many permanent residents of the United States of Japanese ancestry who were stranded in Japan during the war and have since returned had their property vested. Others, too old to return, have remained in Japan. In general, their sequestrated property consists of such items as small bank deposits in American banks, insurance policies, homes, lots, etc.

In this connection, it might be observed that, long after hostilities and during the period of American occupation, our authorities in Japan directed that all persons in Japan with any property in the United States should register that property. Thinking that this registration was a prelude to possible return, the Japanese complied. The Office of Alien Property then proceeded to vest all such property which it had previously not vested. This later vesting took place after hostilities had formally been terminated, and Japan was under allied occupation. It continued, by the way, until the coming into force of the Japanese Peace Treaty in April 1952—some 7 years after the surrender of the Japanese forces in August 1945.

Our plea, however, is not restricted to the return of this property which was taken from our citizens and resident aliens of Japanese ancestry, for we submit that the principles involved are as valid and as compelling—if not more so—for those Japanese nationals and corporations whose properties were seized, than for our own in this country. Indeed, in terms of our national and international concerns, the return of property to the oversea Japanese may be much more important.

Discrimination against Japanese

In the past, bills relating to the return of sequestrated private property often discriminated against the Japanese, including Japanese-American citizens resident in this country.

Initially, these remedial measures failed to include Japanese among their beneficiaries because their authors were unaware that persons of Japanese ancestry too were among the victims calling for corrective legislation. Then, a series of bills were introduced which would have dismissed certain Japanese claims because their processing or return would cost more administratively than the amount involved. And, more recently, the Eisenhower administration decided that, in spite of their professed principle regarding the sanctity of private property, Germans—but not Japanese—would be authorized an equitable monetary return of their seized assets. That administration argued that since the liquidated proceeds of Japanese vested property had been used to pay American war claims against the Japanese Government, the individual private Japanese property owners would be deprived of any consideration comparable to that extended German property holders in the identical position.

We are hopeful that in this Congress neither the lawmakers nor the administration will urge the enactment of legislation discriminatory to either the Japanese or the Germans, for the already patent discrimination as against these former enemy nations is apparent when compared to the vested property treatment accorded to private property owners of other former Axis belligerents.

As far as early congressional legislation is concerned, we have reference to special bills which were introduced several years ago authorizing the Office of Alien Property, Department of Justice, to pay only the German beneficiaries of American insurance policies, estates, trusts, bequests, etc. Apparently the authors of this type of legislation were not aware that Japanese too were involved in such arrangements, for once we notified them of our concern they expressed willingness to accept amendments which would eliminate any discriminatory consideration.

Bills of this scope that are introduced now—as far as we have been able to ascertain—provide equality of treatment for both Germans and Japanese.

In the 83d and 84th Congresses, the Senate approved administration-sponsored bills which would have dismissed yen debt claims against the Office of Alien Property on the grounds that repayment on the basis of the postwar exchange rate would be too expensive to warrant the administrative processing of these claims. Fortunately, the House Interstate and Foreign Commerce Committee on both occasions failed to concur with the Senate action.

At the present time, the appropriate repayment rate for these yen claims—whether it should be the prewar exchange rate of approximately 4 yen to the dollar or the current postwar exchange rate of 360 yen to the dollar—is the subject of litigation in the Federal District Court in and for the District of Columbia. Four years ago, an independent hearing examiner recommended the prewar rate, but he was reversed 3 years ago by the Assistant Attorney General

who was also the Director of the Office of Alien Property, and this reversal was upheld by the Attorney General.

In any event, this arbitrary and discriminatory dismissal of some 20,000 claims of persons of Japanese ancestry resident in the United States, without hearings on the merits, did not become law.

On July 31, 1957, the White House issued a declaration that it would submit to the Congress early in the following session legislation "to reflect the historic American policy of maintaining the sanctity of private property even in wartime" that "would permit, as an act of grace, an equitable monetary return to former (German) owners of vested assets." The same policy declaration expressed the hope "that it will also be possible to work out a final solution to the Japanese vested assets problem for presentation to the next session of Congress."

On March 28, 1958, the Eisenhower administration proposed a limited return bill for Germans only. "It is not intended," the State Department letter submitting the proposal to Congress emphasized, "that this recommendation include vested Japanese assets with respect to which existing circumstances are substantially different. It appears that the value of vested German assets exceeds the amount of American war claims against Germany which have already been paid or which would appropriately be paid out of such assets. On the other hand, the amount of American war claims against Japan which have already been paid by the U.S. Government exceeds by far the value of the vested Japanese assets."

JACL sent a strongly worded letter to the President, protesting the "discrimination of the most arbitrary and capricious kind, especially in view of the previous summer's White House declaration that any return plan would be 'as an act of grace'." The letter also stated "the administration unwittingly has provided another gratuitous weapon that the enemies of the United States both within and without Japan may use against us as an example of our national lack of concern for Asians generally and the Japanese particularly."

As to the explanation that "existing circumstances are substantially different" for the Japanese, thereby justifying this exclusion from its recommendations to Congress, the JACL letter declared that "these substantially different circumstances relate only to the availability of funds and not the principle enunciated in the White House declaration of July 31, 1957, of 'the historic American policy of maintaining the sanctity of private property even in wartime.'

"So-called Japanese funds are not available only because they were used to pay American war claims against Japan, a subject that is separate and distinct from that of confiscating or returning sequestrated private property. One relates to the payment of claims against a government for the actions of that government, while the other concerns the private property of individuals who were not responsible for the activities of the government then in power."

In a letter to the chairman of the Senate Judiciary Subcommittee on the Trading with the Enemy Act dated April 7, 1958, we pointed out that the administration's discriminatory proposals would "alienate one (country) at the expense of the other" and "actually emphasizes the confiscatory aspects" by "meting out our generosity and magnanimity to one ally, while denying it to the other."

To our mind, the Eisenhower administration proposal 3 years ago was a most unfortunate pronouncement of public policy, for its suggested to those in other lands, who are quick to seize upon what appears to be distinctions between the treatment accorded to Europeans and to Asians, the charge of bigotry and prejudice.

Congress, however, failed to act upon the official recommendations, thereby retrieving to some extent a tragic blunder.

Differences in Japanese and German situations

As mentioned earlier, there are a number of significant differences between the circumstances involving vested German and Japanese properties.

JACL, however, does not suggest that these differences call for, or justify, any discriminatory or favorable treatment for or against the claims of either the German or Japanese private property claimants.

In distinguishing between the international law status of German and Japanese claims to this vested private property, it is important to keep in mind that Japan is not a signatory to any agreement such as the so-called Bonn agreement, or to any reparations agreement such as the so-called Paris reparations agreement.

The Bonn agreement allegedly commits the Federal Republic of Germany to undertake to compensate her own nationals for the loss of sequestrated property in the United States.

The Japanese Peace Treaty, signed in San Francisco, September 8, 1951, in chapter V, relating to claims and properties, article 14, paragraph (IV), simply provides that "The right to seize, retain, liquidate or otherwise dispose of all property as provided in subparagraph (I) above [which refers to the property of Japan and Japanese nationals, of persons acting for or on behalf of Japan or Japanese nationals, and entities owned or controlled by Japan or Japanese nationals, with certain exceptions] shall be exercised in accordance with the laws of the Allied Powers concerned, and the owners shall have only such rights as may be given him by those laws."

In other words, there is no implicit or implied promise or agreement on the part of the Japanese Government to attempt to compensate her nationals for the loss of vested private property in the United States.

Much has been made by the opponents of full or even partial return, and by the Government in the case of its limited return bills, that confiscation of private property for a public obligation is not involved because the German Government agreed to compensate her nationals in the Bonn agreement for the loss of their vested property in this country.

But this argument does not apply to the Japanese owners of vested private property because no government—certainly not the Japanese or the German Governments—agreed to compensate them for their losses of prewar property in America.

Thus, in the case of the Japanese at least, it is patently evident that failure to return in full all Japanese vested private property constitutes a clear and simple case of confiscation of private property by the United States.

Neither is Japan the subject of any Paris Reparations Agreement such as that which allegedly binds some 18 Allied Powers "to hold or dispose of German enemy assets within its jurisdiction in a manner designed to preclude their return to German ownership or control * * *."

The only multilateral agreement involving the Allied Powers in the reparations problems of Japan is the Treaty of Peace, and that specifically recognized that reparations had to be waived in the interest of maintaining a "viable economy" in Japan.

As a matter of fact, since the Treaty of Peace did not directly or indirectly bar the return of this vested private property, but merely recited that the disposal of such property should be exercised in accordance with the laws of the United States in this case, with the owners having such rights as those given them by those statutes, both the Japanese Government and the Japanese private property owners had precedent and traditional American principles to cause them to believe that in due course this sequestrated private property would be returned to them.

This hope for eventual return was encouraged when this Government did not rally other Allied Powers, as was done in the Paris Reparations Agreement of the West German Government, to "hold or dispose" of Japanese enemy assets within their respective jurisdictions "in a manner designed to preclude their return" to Japanese ownership and control, and when our Government did not insist, as it did in the Bonn Agreement with Federal Republic, that the Japanese Government must reimburse its nationals for private property lost in the United States because of the war.

This optimism was strengthened as the U.S. Government, after returning to Italian nationals their vested property, arranged for the return of the sequestrated private property of Rumanians, Bulgarians, Hungarians, and Austrians, cobelligerents and allies of Nazi Germany.

Except possibly for patents and copyrights, the nature of most of the seized Japanese property permitted early liquidations. In the case of several substantial formerly German companies, however, their operations were taken over by local management and labor and were continued during the war and even to this day. Accordingly, the question of so-called windfall profits based upon the increased value of these properties is added to the many other problems involved. Added too are the now vested interests of American management and American workingmen.

Furthermore, as stressed so often by the Eisenhower administration, while there are funds available for payment instead of return of this sequestrated property to the Germans, such funds are not available to the Japanese property

owners. The liquidated proceeds of the private Japanese vested property were diverted to pay American war claims, as defined by an ex post facto statute that affected the Pacific theater of war more than the European.

In this connection, it should be suggested that the Japanese private property owners had no more to do with the disposition of these funds than did their German counterparts.

Finally, again referring to the fiscal aspect, it was pointed out even as recently as last year that the Germans had agreed to repay postwar economic assistance to the United States and that this repayment might be used to pay for the return program to the Germans.

Several months ago, Japanese and American representatives initialed an agreement in Tokyo that Japan would also repay its postwar economic assistance from the United States. Therefore, this difference—which will be discussed at greater length later in this statement—no longer obtains.

Japan's compliance with treaty obligations

Although this may not be directly related, we believe that it may be of interest to this subcommittee that Japan has lived up to all of its many obligations under its treaty of peace, which, though signed the year before in San Francisco, did not come into force until April 27, 1952.

Chapter V, article 15, provided for the restoration of American property or the payment of war damages. According to Whitney Gillilland, then Chairman of the Foreign Claims Settlement Commission, in testimony before the Senate Judiciary Subcommittee on the Trading With the Enemy Act on June 18, 1959, "This agreement has been faithfully performed. We are advised that as of December 31, 1958, 519 American claims had been paid in a total amount of approximately $15,400,000." Originally, it was intended that these payments be made only in yen. Subsequently, the Japanese Government authorized the conversion of these yen payments into U.S. dollars.

Article 16 provides that the assets of Japan in neutral countries and countries at war with the Allied Powers, or the equivalent of such assets, shall be transferred to the International Committee of the Red Cross to be paid as indemnity to those members of the Armed Forces of the Allied Powers and families who suffered undue hardships while prisoners of war of the (wartime) Imperial Japanese Government. The payments of the Japanese Government were completed by May 1955, in total of £4,500,000 sterling (British).

The United States first joined with 12 other nations in these claims, but later renounced its rights. Instead, under the War Claims Act of 1948, the U.S. Government took the liquated proceeds of Japanese and German vested private property and paid American war claims against Japan, thus using funds from the sale of private property to pay the national obligation of the Japanese Government. Then Chairman Gillilland of the Foreign Claims Settlement Commission reported in June 1959, that "approximately $60 million resulting from the liquidation of Japanese assets in this country found its way into the war claims fund and has been disbursed."

The Japanese Peace Treaty, while waiving reparations, provides that the services of the Japanese people would be negotiated instead, with the Allied Powers whose present territories were occupied by Japanes forces, for repairing the damage done.

According to the Journal of Commerce for June 17, 1959, Japan has completed its last arrangements for these negotiated services. Japan has agreed to pay Burma $200 million in 10 years, $550 million to the Philippines in 20 years, $220 million to Indonesia in 20 years, and $39 million to South Vietnam in 10 years. In addition, Japan was forced to write off its credit trade balance of $174 million with Indonesia and was obligated to extend loans on a government or private basis of $50 million to Burma, $250 million to the Philippines, $400 million to Indonesia, and $16,600,000 to South Vietnam. Laos and Cambodia waived not only reparations but also the war damage services offered by the Japanese.

While the fact that Japan has faithfully discharged every commitment under the treaty of peace may not have direct bearing on the subject of private property return, it is, nevertheless, worthy of note that in taking such action as was required, all of the Japanese people—and not a particular segment—were, and are called upon to assume their proportionate share of what might be described as Japan's war guilt.

Moreover, Japan's strict adherence to the letter and the spirit of the peace treaty should not penalize her for the same consideration extended all of the other World War II enemies except Germany in this matter of returning vested private property.

II. FOR RETURNING VESTED PRIVATE PROPERTY

Reasons to expect private property return

Since the treaty of peace specifically provides that the Japanese Government waived its rights, and those of its nationals, to seized and retained private property in the United States, it may be helpful to this subcommittee to understand some of the reasons that cause these former owners to look forward with considerable confidence to the ultimate return of this sequestrated private property, congressional apathy over the past 16 years notwithstanding.

Historic practice

The chairman of the Senate Judiciary Subcommittee on the Trading With the Enemy Act, after more than 8 years of extensive personal study of this question, declared on June 18, 1959, in describing a bill similar to H.R. 8305: "It is an historic fact that the United States has never practiced confiscation of the properties of former enemies. During the Revolutionary War, several of the Colonies confiscated the properties of the English Tories. This was compensated for in our first treaty—the Jay Treaty—with England in 1794. The formula set out in that treaty has been the uniform pattern for all of our subsequent treaties of commerce, friendship, and navigation with other governments."

At another point, the chairman stated that "Every Secretary of State of the United States without exception from Thomas Jefferson—our first secretary—through Mr. (John Foster) Dulles has opposed confiscation. Each has sought to maintain the doctrine of the inviolability of contractual rights and the sanctity of private property in time of war or national emergency."

The late Secretary of State Dulles, in testimony before the Senate subcommittee in July 1954, on this same subject of private property return, emphasized that "The policy adopted after World War II, of completely eliminating ownership of enemy private property, was a departure from historic American policy after other wars. I, myself, have had some experience in this field. I worked on this very problem at Paris in connection with the Treaty of Versailles at the end of World War I.

"I can frankly say that I would like to see a return to our historic position, the position of the sanctity of private property in time of war, to return to that historic position to the extent that may be practical, although I recognize that there are considerable difficulties in dealing with the matter on that basis after so long a period of time."

Following the end of hostilities, in keeping with our traditional concepts and practices after every war, in the Lombardo Agreement of August 1947, the United States agreed to the full and complete return of all Italian private property vested during the period when Italy was an Axis partner of Germany and Japan.

The next year, Congress enacted the War Claims Act of 1948 and provided for the confiscation of sequestrated German and Japanese private property for the payment of American war claims, mostly against the former enemy Japanese Government.

JACL contends that the time is long past due when this un-American confiscatory statute should be amended to conform to our historic precepts concerning the sanctity of private property.

Only a year (1949) after the enactment of the War Claims Act, legislation was approved which provided for the return of the vested property of Bulgarians, Rumanians, and Hungarians, subject to the discretion of the President. In a sense, this statute reversed the confiscatory sentiment expressed in the 1948 War Claims Act.

In August of 1953, Congress again reversed, at least in part, its confiscatory program of 1948 by authorizing the direct appropriation of some $75 million to pay German and Japanese war claims even though there were sufficient funds to cover this sum in the vested property account and in spite of the earlier legislative directive that war claims were to be paid from this same account.

In the summer of 1960, a treaty to return $6 million of vested German assets to Austrians who are the real owners of that property was ratified by the Senate.

And, as recently as July 31, 1957, a White House declaration reaffirmed "the historic American policy of maintaining the sanctity of private property even in wartime" by suggesting that "as a matter of grace, an equitable monetary return to former owners of vested assets" would soon be proposed (for the Germans, but with the hope that the Japanese would be the beneficiaries of subsequent legislation) to the Congress.

Mindful of the historic precedents, the Senate Judiciary Committee in the 83d and 84th Congresses favorably reported out comprehensive full return bills. Unfortunately, in both instances, there was not enough time prior to adjournment to permit floor consideration.

In the light of American history, is it any wonder that the Japanese have the faith to believe that in time their private property sequestrated during and after the war will be returned?

Sanctity of private property

The cornerstone of the private enterprise system, especially as practiced by this country, is the sanctity of private property.

John Adams, during discussions leading to the adoption of the Federal Constitution, made clear the attitude of the Founding Fathers: "The moment the idea is admitted into society, that property is not as sacred as the laws of God, and that there is not a force of law and public policy to protect it, anarchy and tyranny commence. If 'Thou shalt not covet' and 'Thou shalt not steal' were not commandments of Heaven, they must be made inviolable precepts in every society before it can be civilized or made free."

The classic statements of Alexander Hamilton defending the article in the Jay Treaty relating to private property sum up the American belief in the sanctity of private property:

"The right of holding or having property in a country always implies a duty on the part of its government to protect that property, and to secure to the owner the full enjoyment of it. Whenever, therefore, a government grants permission to foreigners to acquire property within its territories, or to bring and deposit it there, it tacitly promises protection and security * * *

"The property of a foreigner placed in another country, by permission of its laws, may justly be regarded as a deposit, of which the society is the trustee. How can it be reconciled with the idea of a trust, to take the property from its owner, when he has personally given no cause for the deprivation? * * *

"There is no parity between the case of the persons and goods of enemies found in our country and that of the persons and goods of enemies found elsewhere. In the former there is a reliance upon our hospitality and justice; there is an expressed or implied safe conduct; the individuals and their property are in the custody of our faith; they have no power to resist our will; they can lawfully make no defense against our violence; they are deemed to owe a temporary allegiance; and for endeavoring resistance would be punished as criminals, a character inconsistent with that of an enemy. To make them a prey is, therefore, to infringe every rule of generosity and equity; it is to add cowardice to treachery * * *.

"Moreover, the property of the foreigner within our country may be regarded as having paid a valuable consideration for its protection and exemption from forfeiture; that which is brought in commonly enriches the revenue by a duty of entry. All that is within our territory, whether acquired there or brought there, is liable to contributions to the Treasury, in common with other similar property. Does there not result an obligation to protect that which contributes to the expense of its protection? Will justice sanction, upon the breaking out of a war, the confiscation of a property, which, during peace, serves to augment the resources and nourish the prosperity of a state?"

Again, in the words of Hamilton:

"No powers of language at my command can express the abhorrence I feel at the idea of violating the property of individuals, which, in an authorized intercourse, in time of peace, has been confided to the faith of our Government and laws, on account of controversies between nation and nation. In my view, every moral political sentiment unite to consign it to execration."

As recently as 1943, in the midst of World War II, the house of delegates of the American Bar Association accepted a report which read, in part:

"Confiscation is contrary to the principles of law It is contrary to our constitutional law principles, and to the principles of international law. When the reign of law for which we are fighting returns, parties injured by confiscation may be expected to seek just redress; and a just administration of law may be expected to award such redress. It has been so in the past, and if the basic traditional concepts of justice have meaning, it will be so again."

It is a matter of common knowledge that, following the outbreak of World War II, our Government, in accordance with time-honored wartime practice, sequestrated the private property within its jurisdiction that belonged to enemy nationals. The purpose and the justification for this action was to immobilize

this property in order that it might not be used by the enemy governments to aid in the prosecution of the war against the United States.

That the eventual return of this property was contemplated is revealed in the designation of the officer directed to sequestrate this property: The Alien Property Custodian. It was his responsibility to secure and hold in custody during the period of hostilities the private property of enemy nationals.

Once hostilities ceased, since the purpose and the justification for sequestration also ended, the property should be returned.

We are indebted to Attorney David Ginsburg for information that, according to the Hague Conventions to which the United States is a signatory, "Even an army in belligerent occupation of enemy country is not free to take property required for the need of the country. The belligerent occupant is forbidden by the Hague Convention to confiscate private property. He may only requisition what he needs and he must pay compensation."

He goes on to cite the Field Manual of the U.S. Department of the Army on the subject of "The Law of Land Warfare", dated July 1956, to demonstrate that our Army has regulations assuring that "measures of property control must not extend to confiscation" and that "prohibited acts * * * extend not only to the outright taking in violation of law but also to any acts which, through the use of threats, intimidation, or pressure or by actual exploitation of the power of the occupant, permanently or temporarily deprive the owner of the use of his property without authority under international law."

Attorney Ginsburg concludes by stating that "It is absurd to contend that international law, which so clearly and emphatically prohibits a belligerent occupant of enemy territory from confiscating private property located there, permits the same belligerent to confiscate the private property located in his own territory."

If during the period of the American occupation, our Government was not able to confiscate private property in occupied Japan, is it unreasonable for the Japanese to believe that their private property in the United States is likewise protected from confiscation, especially in view of our oft-expressed principles of the sanctity of private property?

No private property for public use

Another fundamental principle of our system of government is that private property may not be used for a public purpose or obligation without just compensation.

It is so much a part of our way of life that the fifth amendment to our Federal Constitution specifies that private property shall not be taken for public use without just compensation.

Under the War Claims Act of 1948, the U.S. Government decided that, in the national and international interests of our country, it would assume the moral obligation to pay individual American war claims that legally should have been charged to the former enemy Japanese Government.

By using the liquidated proceeds from the sale of vested private property for the payment of a Government obligation, we have taken the private property of individuals and converted it to public use in contravention of the constitutional prohibition. The only remedy, according to the fifth amendment, is to provide just compensation which, in terms of this problem, means full monetary return to the former owners.

But, protest the opponents of return legislation, confiscation of private property is not involved because the Japanese Government waived its rights and those of its nationals to this sequestrated property in the United States "in lieu of reparations" in the peace treaty.

To those native-born and naturalized American citizens of Japanese ancestry whose property too was vested, no foreign sovereign has the authority to waive their rights as U.S. citizens.

To those Japanese nationals whose rights to their private property in the United States had been waived without their consent or even consultation, the Japanese Government lacked the authority to give away what did not legally or morally belong to it. Moreover, as a defeated nation, the representatives of the former enemy Government had no alternative but to accept whatever might be proffered them as the conditions for peace and the resumption of sovereignty.

Furthermore, argue the Japanese, if the peace treaty of 1951 is in fact one of "reconciliation" as is our proud boast, it is unfair to saddle the entire burden of Japanese reparations on those few who prior to World War II had

invested in the United States. If the new Japan is to pay for the war guilt of its wartime militarists, then such payment should be distributed among all of the Japanese people, and not those few who happened to have property in the United States in the prewar years.

These Japanese nationals, no less than American citizens of Japanese ancestry, look upon their vested assets as their private property. Accordingly, any conversion of their liquidated proceeds for the payment of claims assumed by our Government constitutes confiscation, the unconstitutional use of private property for a national obligation.

Looking at the issue from this background, and from the standpoint of logic and understanding, is it so difficult to conceive of the Japanese accepting at their face value our pronouncements that private property shall not be used for a public obligation, at least without just compensation?

Indeed, in the next section discussing so-called war damage claims legislation, JACL will urge that direct congressional appropriations should be made to pay for this program, rather than diverting funds from the liquidated proceeds of vested property, if it is to be the subcommittee's will to report favorably at this time only war damage claims legislation.

The national interest in return

Aside from living up to our precepts of sound government, which have helped to make our Nation "the last great hope of mankind" and our economic system the envy of the world, our refusal to return this sequestrated private property—regardless of our pretexts—jeopardizes our foreign investments which total some 60 billions of dollars, for by our example of confiscation we may inspire others to "sequester," "vest," "expropriate," or "nationalize" private American holdings abroad.

Especially in these times when our national policy encourages private investments in the newly independent, less developed countries, a confiscatory program at home may provide the necessary "excuse" or "justification" for some foreign tyrant to confiscate U.S. property. Easily recalled to mind are that Nasser in Egypt "seized" American and other foreign private property and that Castro in Cuba is continuing to "confiscate" private American holdings there. Our understanding is that both of these "dictators" cited our Trading With the Enemy Act as their example for their actions.

In this connection, it may be well to refer to the answer of the late Secretary of State Dulles to a question asked by Senator Everett M. Dirksen of Illinois, at hearings held in 1954 on this same subject. The Senator asked whether the Secretary could see any relationship "between what we did in the revised Trading With the Enemy Act in completely changing our concept from custodianship to confiscation (in the War Claims Act of 1948) with * * * the growth of the expropriation idea in the world?"

Secretary Dulles replied that he did "see some relationship between it.

"I recognize that there is force in what you say, to the effect that our own position to protect American interests abroad is strengthened if we protect foreign interests that are here.

"I would think that in an era when we expect the American interests abroad, American capital investments abroad, that it is wise for us to adhere ourselves strenuously to the highest standards of conduct in relation to those matters. That puts us in a better position to call upon others to apply the same standards."

Senator Homer E. Capehart of Indiana, testifying on return legislation in April 1957, had this to say on this aspect of the question: "The troublesome questions now affecting the peace of the world growing out of improper nationalizations and the more important probabilities of expropriation and confiscation are much too vital and important to all Americans—our youth, our private and Government investments abroad, aggregating billions upon billions of dollars, the enduring traditions of our Founding Fathers and embraced within our own constitutional provisions, the heavy national indebtedness we all have assumed in our generous bounties scattered throughout the world—for us now to consider a departure from principle for any patent diversionary disposition of privately owned property vested in wartime, however glossy and appealing such diversions may be dressed up for popular appeal. * * *

"Now, of all times, we, who set the moral standards for the peoples and governments of the world, must of all things adhere to them or be willing to pay in lives and our material fortunes the unthinkable price involved in the savage doctrine of confiscation.

"Confiscation is the attribute of communism. Private ownership, the integrity of property rights, and contractual obligations, on the other hand, are the distinguishing characteristics and handmaidens of the free world. The issues involved are just that simple. Our choice should also be just that simple."

The Japanese are aware that the United States today is the leading creditor nation in the world. Since they are also aware of the tidal wave of nationalism and anticolonialism that is sweeping through the newly independent countries of Asia and Africa, can anyone doubt that they understand the necessity for America "to practice what we preach," for to those in the once mysterious Orient "one picture is worth a thousand words"?

The international interest in return

Intermingled with our national interest in return is our international interest, for there are realities in the world today that need to be kept constantly in mind.

Senator Roman L. Hruska of Nebraska, on May 15, 1959, described to the Members of the Senate some of the international concerns that suggest that the remaining vested private property be returned to their German and Japanese owners.

"Our stricture of one of the principal tenets of the free world—the right to earn, possess, and dispose of property—becomes more painful when we consider the burden that other Senators and I and every American have borne and will bear for years to come in our national defense and continued foreign aid programs. We spend half or more of our annual budget in defense of freedom and we deny to a few citizens of a worthy ally one of the essential elements of freedom, their vested estates. Bitterness to gall in this situation is added when we reflect upon the fact that we have by treaty or executive agreement or action of the Congress returned substantial properties to our former enemies: the Italians, Bulgarians, Rumanians, and Hungarians. In fact, a treaty to return $6 million of vested German assets to the Austrians has been signed and may soon be submitted to the Senate for ratification. I do not complain about these returns. I merely assert that our former enemies—the Germans and Japanese—have as much claim to be treated rightly as did others who were equally at war with us. It is trite to say that some of the returns already effected are to those now under Russian domination. It is equally clear to us all that Japan in the Far East and West Germany in Europe constitute the bulwark of our strength as a free nation in those areas. * * *

"Mr. President, I trust the Congress, the President, and our executive officers will reappraise our treatment of our former enemies—now our warmest allies—so far as the rights of a few of their nationals are concerned. We owe this to the individuals affected. We owe it to their governments."

To the Japanese and Germans whose properties are still vested, their treatment at the hands of our Government, when contrasted to that accorded to former Italian, Bulgarian, Rumanian, Hungarian, and Austrian owners, rankles bitterly.

These Japanese who established companies in our country in the pre-World War II days were those who had confidence in our Government and in the sanctity of their investments here. Because they lived and worked among us for many years, they have been the most aggressively pro-American group in postwar Japan. Many of them aided in the occupation and in the development of democracy in their once totalitarian nation. They preached that the American way of government was the best.

Though designated as "enemy nationals" by our laws, these Japanese nationals who had businesses in this country before the outbreak of war were—and are—our most loyal friends. Can one imagine how these Japanese nationals must feel when they learn that the State Department requested legislation to return the private property vested from Bulgarians, Rumanians, and Hungarians because "we (the United States) do not wish to alienate the support of friendly nationals of Bulgaria, Hungary, and Rumania or impair their faith in the United States"? How can we justify to the Germans and Japanese this favoritism for the "friendly nationals" of three countries which are now satellites of the Soviet Union, while continuing to discriminate against the "friendly nationals" of our two allies who are bulwarks of our free world defenses?

Today, Japan is the showcase of democracy and private enterprise in the Far East. The new nations of southeast Asia, especially, are comparing Japan

with Red China in their ideological conflict to determine which system will be most effective for their destiny.

At a time like this, it would not only help Japan if this sequestrated private property were returned to their former owners, but also the cause of freedom and democracy in the Afro-Asian area.

Seven nations—Argentina, Brazil, Chile, Peru, Ceylon, India, and Pakistan—have all returned the private property of the Japanese which they sequestrated during World War II.

To the Japanese, is it not ironical that the United States, the leading exponent of the sanctity of private property, should continue to retain Japanese private property 16 years after the surrender?

To the Japanese who cannot understanding the apparent discrimination against only the Germans and the Japanese of America's World War II enemies, is it too much to expect that the United States will soon eliminate this discrimination and return their private property too?

Continued retention violates treaty obligations

Even granting that perhaps the German and Japanese Governments have no legal right to request the return of this vested private property because of the Bonn agreement and the peace treaty, JACL believes that the United States by formal treaties of commerce and friendship now in force is obliged to return this private property to their individual owners.

Under these treaties of commerce and friendship, both Germany and Japan are granted most-favored-nation status, even as they have granted reciprocal status to this country in terms of their international conduct. This provides that the United States may not discriminate against either or both of these Governments, or treat them less favorably, than other nations are treated in our international relations.

By treaty and by law, the United States has authorized the return of sequestrated private property, all originally seized under authority of this same Trading With the Eenemy Act, to Italians, Bulgarians, Hungarians, Rumanians, and Austrians in the past 16 years since the end of World War II.

To refuse to extend this same courtesy, or right, to Germans and Japanese constitutes a violation on the part of the United States of its treaty obligations with what are now our two principal dependents in the East and in the West against the Sino-Soviet menace. To continue to retain this property is rank discrimination against our friends and allies.

At the same time, these treaties confer upon the Governments of Germany and Japan the duty, on behalf of their own nationals, to demand equal consideration and treatment as a "most favored nation" with Italy, Bulgaria, Hungary, Rumania, and Austria in this matter of the return of private vested property. As a matter of fact, the treaties of commerce and friendship supersede the earlier waivers to this vested private property because they were negotiated and ratified long after these earlier undertakings and under more "normal" conditions.

Japanese property in Philippines

At this point, we wish to call the attention of this subcommittee to another aspect of this private property vesting which we have never before presented formally to any congressional subcommittee or Government agency, that of private Japanese property in the Philippines which was vested under authority of the same Trading With the Enemy Act that was applicable to the U.S. "mainland" at a time when the islands were among the territorial possessions of the United States, and not an independent and sovereign republic.

The American Government sequestrated this Japanese private property in the Philippines at the same time and under the same authority as other German and Japanese private property was vested in the then territories of Hawaii and Alaska, as well as the "contiguous" United States.

Under a bilateral agreement with the Republic of the Philippines, the United States has transferred much of this vested Japanese private property to this former American territory whose citizens now, not so long ago, were U.S. nationals.

In the peace treaty, the United States agreed to retain this seized Japanese private property in lieu of reparations. In the meantime, the Japanese Government has concluded a reparations treaty with the new Philippine Republic in which Japan has agreed to pay $550 million in actual reparations and to extend a loan for some $250 million more. These reparations are many more times that of all seized Japanese assets, which total less than $75 million, including the

so-called Philippine account, which is only a small fraction of the U.S. vesting of private Japanese property everywhere under the American flag.

Since Japan has agreed to reparations for the Philippines, and since seized assets were to be retained in lieu of reparations, it seems just and equitable that at least the amount involved in the Philippines account in the Office of Alien Property, Department of Justice, can—and should be—returned to their former Japanese owners without further delay.

Return to individual owners

Any return of this private property—in our considered judgment—should be to their lawful individual owners, and not to the German and Japanese Governments for subsequent distribution by these Governments to their respective nationals at their own discretion.

Such a general return would not satisfy the requirements concerning the sanctity of private property. The private property of individuals was taken; therefore, that private property should be returned to those same individuals, or to their heirs.

Such a general return, en bloc as it were, to a government certainly would not satisfy either the spirit or the meaning of the sanctity of private property. The United States took the private property from individuals, not public property from governments, under the pertinent provisions of the Trading With the Enemy Act. Accordingly, the return should be made to these same individuals, or to their lawful heirs when necessary. The public property taken from the governments concerned, such as embassy and consular properties, have long been returned to their respective governments. Only the private property still remains vested in our hands.

A general return to a government—such as, for example, Japan—might well prove embarrassing to that Government by creating new problems and crises from their nationals whose properties in other areas—like China, Manchuria, Korea, Hong Kong, etc.—have not been returned by the governments now in control of those territories. In a sense, we might be forcing a friendly government to discriminate as against their own nationals. Such action might invite demands that the government compensate all their nationals for all lost oversea private property—a financial impossibility.

Also, return to a particular government might implicate the United States unwittingly in the internal politics of a foreign country, for the method of distribution may bring about certain charges and countercharges. The exigencies of foreign relations should not be left to the whims of another government if they can be avoided.

But, most fundamentally, since the private properties of American citizens are also involved, our own citizens should not be compelled to seek any necessary redress in foreign courts or through a foreign government. Indeed, an American citizen should not be asked to petition or apply to a foreign instrumentality for the return of his private property that was vested originally by his own government. That the rights of American citizens should be preserved and protected above and against those of an alien is basic to our conduct of government.

III. NO PRIVATE PROPERTY FOR WAR DAMAGE CLAIMS

Vested property proceeds not for war damage claims

Thus far, we have emphasized our belief that the private property sequestrated under authority of the Trading With the Enemy Act should be returned in kind or monetary equivalent to their lawful individual owners. Such complete return is provided in H.R. 8305.

In addition to this war damage claims-private property return package bill, the subcommittee is also considering a number of measures authorizing compensation for so-called war damage claims. These claims, incidentally, supplement the "personal" war claims of Americans against Japan and Germany which have been authorized and paid under previously enacted legislation, such as the War Claims Act of 1948.

The two major war damage bills, H.R. 7283 and H.R. 7479, provide that the funds to pay for these war damage claims shall be taken from the liquidated proceeds of vested private property, thereby returning to the confiscatory program of the 1948 War Claims Act which contradicts prior historic American policy and practice.

Since the further depletion of these liquidated proceeds of vested private property, without doubt, will add to the difficulties in securing any return of this same private property, and since the return of this sequestrated private property is our primary concern, JACL strongly disapproves of this back-door method of financing the payment of war damage claims and respectfully urges that, if these war claims bills are to be considered separately from legislation for private property return, amendments be approved for direct congressional appropriations for this purpose.

At this juncture, JACL desires to make it clear that we do not oppose the payment of war damage claims, for many of our members are the grateful beneficiaries of claims legislation arising out of their military service in World War II and in Korea, as well as out of the unfortunate and unwarranted arbitrary, mass military evacuation from our homes and associations on the west coast in the spring of 1942.

We do not oppose the purpose of these proposals; we oppose only the procedure for providing payment.

If war damage legislation is reported by this subcommittee with provisions for direct congressional appropriations, JACL will support such a bill. If, on the other hand, this legislation is not amended to provide for direct appropriations, JACL will have no alternative but to oppose the measure as one whose bad features far outweigh whatever good aspects the bill may have, for it is our judgment that the raiding of liquidated assets of private vested property for any purpose, no matter how worthy, is violative of fundamental American precepts of good government and public policy.

To argue that because the Congress set forth certain procedures in enacting the War Claims Act in 1948 establishes that these procedures are correct and enduring for all time, denies the right of Congress to review and to amend legislation in the light of experience and the stark realities—political, economic, and international—of the changing times.

JACL contends that Congress should return to the principles of the Founding Fathers and amend the Trading With the Enemy Act and the War Claims Act to uphold the sanctity of private property.

Minority views of committee members

When this subcommittee and its parent Committee on Interstate and Foreign Commerce reported a bill (H.R. 2485, 86th Cong.) similar to H.R. 7283 in February 1960, three members of this committee (Congressmen John B. Bennett, of Michigan, Paul F. Schenck, of Ohio, and Samuel L. Devine, also of Ohio) filed their minority views in the committee report on the aforementioned war damage bill.

We hold that their minority views were sound then, and even more applicable today. We suggest that they should be adopted as the majority views.

Commenting on the proposal "to utilize assets located in this country which were seized from nationals of Germany and Japan to satisfy claims of U.S. nationals for war damage losses during World War II," the minority declared that "Such a course of action is contrary to historic American policy of maintaining the sanctity of private property. The (minority) are convinced that continued adherence to this traditional American policy will best advance the long-range interests of this Nation and other nations which believe in furthering the freedom of the individual and therefore believe in the protection of private property rights. Deviations from this policy for reasons of short-run expediency can in the end lead only to a gradual abandonment of these beliefs to the detriment of the citizens of all freedom-loving nations. * * *

"* * * we firmly believe that in the light of present conditions the long-term interests of the United States and other free nations will best be served by finding a method of compensating our citizens for their war losses other than the method (of converting vested property proceeds) proposed in the present legislation.

"The American claimants who have been waiting 15 years to be compensated have our fullest sympathy and should be paid at the earliest possible date. However, as was done in the case of Italy, a lump-sum settlement should be negotiated between our Government and the Governments of the Federal Republic of Germany and Japan. In that way the burden of paying for the losses and injuries sustained by U.S. nationals during World War II would fall on German and Japanese taxpayers instead of being borne by those German and Japanese nationals who happen to own property in the United States. In other words, the method of compensating American war claimants proposed in H.R. 2485

and earlier laws and international agreements is tantamount to making individual German and Japanese owners of property in the United States liable for payment of war claims of our nationals."

The minority concluded that "In the absence of an adequate lump-sum settlement, or some other satisfactory method of securing adequate funds for compensation of American war claimants, it is the opinion of the (minority) that the long-term interests of the United States will be better served if the American taxpayers bear the cost of compensating American war claimants rather than individual German and Japanese property owners in the United States."

War claims legislative background

Legally, these so-called World War II claims are not claims against the United States as such. They are, in actual fact, claims against the former enemy governments for losses or damages sustained outside the continental limits of our country by reason of acts of belligerency, enemy occupation, or their consequences.

As a practical matter, however, these individual Americans claimants cannot look to either or both the present Governments of Germany or Japan for the satisfaction of their claims. Indeed, the U.S. Government has recognized the national and international interests involved and has, in effect, assumed on behalf of these former enemy Governments these obligations by validating certain of these claims and authorizing their compensation.

Following the end of hostilities, Congress first considered this war claims matter in connection with the Philippines Rehabilitation Act of 1946. In that precedentmaking legislation, Congress established a Philippine War Damage Commission and authorized a direct appropriation of some $400 million, about half of which was used to pay individual war claims under a formula that provided lump-sum indemnity plus a percentage of the certified loss.

Congress disregarded this precedent for direct appropriations out of the Treasury for the compensation of war claims when, in 1948, it enacted the War Claims Act and provided that certain liquidated proceeds from the sale of vested property should be used for the payment of certain war claims, most of which were against the Japanese enemy.

It is interesting in this connection to note that the Department of Justice recommended against the direct linking of vested assets and war claims and was supported by the administration as represented by the Bureau of the Budget.

In a letter dated April 15, 1947, addressed to the House Interstate and Foreign Commerce Committee, the Attorney General warned: "* * * I suggest that provision for payment (of war claims) by specific appropriation is a more direct approach and would assure that any moral obligation of this Government to insure compensation to its nationals for war damages would not be dependent upon the uncertainties of ultimate financial settlement with enemy countries or ultimate realization on vested property. * * *"

The Bureau of the Budget, speaking for the administration, made it clear that direct appropriations for war claims payments would be "* * * in keeping with good fiscal policy, and would make for simpler and faster administration of both enemy assets and American war claims than would the alternative concept of paying claims from the proceeds of enemy assets."

As a matter of fact, this Committee on Interstate and Foreign Commerce in reporting the bill which later became the War Claims Act of 1948 had this to say on the subject of war claims and private vested property: "No legal or logical relationship exists as between the net proceeds resulting from the liquidation of vested enemy assets and any war claims against enemy governments which might be advanced and adjudicated in the future."

In August of 1953, however, the Congress appeared to be returned to the principle it established in setting up the Philippine War Damage Commission by reversing the procedure somewhat from that outlined in the War Claims Act by amending section 39 of the Trading With the Enemy Act, as amended (Public Law 211, 83d Cong.), to authorize the direct appropriation of some $75 million for the payment of war claims under the 1948 statute.

In August of 1954, a year later, in providing for the payment of American war claims arising out of the Korean war, the Congress clearly returned to its 1946 precedent. In amending section 6–E and 5–G of the War Claims Act of 1948, Congress authorized appropriations which have totaled about $9 million to date to compensate Korean war claimants.

The instant war damage claims bills overlook the more recent precedents that provide direct appropriations for war claims and returns to what we had hoped was the discredited procedure in the War Claims Act of 1948 of taking the proceeds of private personal property for a public obligation to our own citizens.

Annual appropriations urged

JACL proposed that all remaining American war claims be paid out of direct congressional appropriations on an annual basis, as the first approved for World War II claims by Congress in 1946 and recommended by the administration in 1947.

We submit that this is more in keeping with the congressional policy of keeping strict watch and ward over the Nation's purse strings.

Such annual review is consistent with the more than 50 remedial statutes which the Congress had passed as early as 1951 to distribute, in some manner, the burden of war losses. This total, which must be considerably increased in the intervening 10 years, does not include benefits for veterans and their families, but it does include, according to Dr. C. Joseph Stetler, former Director of Legislation and Opinions Service of the War Claims Commission, in an article dealing with congressional appropriations for war losses in the "Law and Contemporary Problems" publication of the Duke University School of Law, summer, 1951, entitled "War Claims," such legislation as the Foreign Claims Act, the Japanese American Evacuation Claims Act, and the Guam Residents Claims Act.

In each of these many enactments, annual congressional appropriations were required to pay adjudicated or settled claims, including those determined by the Court of Claims.

As we have already outlined in a previous section, to provide for the payment of individual war claims out of the liquidated proceeds of vested private property is to violate a cardinal principle of American government; i.e., not to use private property for a public use.

Therefore, any legislation that would take these liquidated proceeds and convert them into a fund for the payment of war claims is confiscation of private property without just compensation.

Thirty-four years ago, in 1927, now Speaker of the House Sam Rayburn, then a young Congressman from Texas already serving his seventh consecutive term in the House, summarized historic and fundamental American practice when he spoke on the question then pending of the full return of German private property sequestrated in World War I.

"* * * from the days of Hamilton and Jefferson and Marshall down to now every man who had a reputation that extended beyond the community in which he lived * * * has looked upon the question of confiscation of private property for the satisfaction of a public obligation with obloquy. That has been our policy. Every writer upon international law in America from that time to now who has been recognized as an authority has taken the position that the most savage doctrine ever announced by any people anywhere was that private property should be taken for the satisfaction of a public obligation."

The 70th Congress, in 1928, concurred with Speaker Rayburn's view, which, we submit, is more valid today in the face of the Communist challenge to private property than ever before: Our Government should not take vested private property for the satisfaction of the public obligation of war claims.

IV. USE OF POSTWAR ECONOMIC REPAYMENTS

Availability of funds

Few will argue that the proposals for the return of sequestrated private property and for the satisfaction of American war damage claims do not have considerable merit each on their own.

Understandably, however, the advocates of both private property return and war damage claims are reluctant to seek direct congressional appropriations to finance their respective programs, especially since there is available a considerable sum from the sale of vested private property.

Those who espouse the return of private vested property insist—and we believe rightly—that the liquidated proceeds from the sale of this property should be used to provide equitable monetary return of the value of these sequestrated private properties.

On the other hand, those who urge the payment of war damage claims suggest that these proceeds from what they choose to describe as enemy property can be more appropriately transferred to compensate for war damages caused by the German and Japanese military.

These conflicting views have served to create the unfortunate situation in which the proponents of one have checkmated the aspirations of the other.

In an effort to overcome this fiscal dilemma, legislation like H.R. 8305 was drafted with the view of utilizing the repayments for postwar economic assistance by this country to Germany and Japan as the source of the funds necessary to implement both the return and the claims programs without seeking a direct congressional appropriation for these remedial objectives.

To this repayment fund would be added—we assume—the remaining liquidated proceeds of vested private property.

Thus, in actual fact, it would appear that the bulk of these postwar aid repayments would be available for the payment of war damage claims with a smaller amount being used to reimburse the vested property account for the sums previously converted to pay certain war claims. And, whatever amount remained in this repayment fund after the completion of the war damage program, plus reimbursement for vested property proceeds appropriated for the payment of earlier war claims, would be covered into the Treasury.

Examined in this perspective, the return program will be financed by the liquidated proceeds of vested property as it would have been, had no funds been transferred previously to the compensation of war claims.

And, both of these remaining, major, nonmilitary problems of World War II can be resolved to the mutual satisfaction of all concerned unilaterally by this means without seeking direct congressional appropriations for these corrective activities.

Moreover, the use of this postwar economic assistance will not do violence to any basic American tradition or principle.

Since the repayments are from the German and Japanese Governments, and not from individual Germans and Japanese, they can be transferred to pay for American war damage claims against the German and Japanese Governments without subjecting private property to public use.

And this reimbursement from this repayment fund, together with the money currently available, will allow for the recognition of the sanctity of private property by the full and complete monetary return of this private property.

Japanese repayment program

In recent years, when a combination, packaged bill for return and war damage claims was introduced, only the Federal Government of Germany had officially agreed and arranged for its program of repayment of postwar economic assistance from the United States. Accordingly, this difference in the postwar economic aid repayment situation between Germany and Japan complicated an already complicated problem.

On June 10, 1961, in Tokyo, the Japanese Foreign Minister and the U.S. Ambassador to Japan initialed a memorandum under which Japan agreed to pay the United States $490 million as settlement for the postwar economic assistance (GARIOA and EROA) given by this country to aid the reconstruction and rehabilitation of that defeated nation. With the interest to be paid over a 15-year period, the total amount will be $579,230,000. The formal agreement will be presented to the Japanese Diet (Parliament), where ratification is assured, possibly this month.

Depending upon congressional adjournment, the Senate may have the opportunity to ratify the treaty this year too; otherwise it will be next session.

Thus, for all practical purposes, the postwar economic assistance repayment situation as between Germany and Japan is identical.

The time has arrived, therefore, when legislation comparable to H.R. 8305 should be enacted for both the national and international interest of the United States and in keeping with the principles of private property sanctity that distinguishes between our system and Communist rule.

V. CONCLUSIONS

The Japanese American Citizens League urges the early enactment of legislation which will (1) direct the monetary return of all private sequestrated property to their lawful individual owners, (2) authorize the payment of legitimate World War II damage claims, and (3) provide for the use of the postwar eco-

nomic assistance repayments from Germany and Japan, together with the remaining assets in the vested property fund, for those two vital programs.

In our statement, we have indicated that this private property was vested, not for purposes of confiscation, but to be held in custody during the period of hostilities to prevent its use in wartime for the benefit of the enemy. Now that the objectives of the original custodianship no longer obtain, 16 years after the surrender of Japan and almost 10 years after Japan regained her sovereignty and has developed into our major American ally in the Far East, we can see no justification for continued retention and discrimination against Japanese private property.

We have shown that continued retention of this private property long after surrender makes a mockery of our protestations regarding the sanctity of private property, that its conversion for the payment of war damage claims is violative of the constitutional prohibition against the use of private property for public obligation, and that this confiscatory example not only jeopardizes almost a hundred times as much in U.S. private investments abroad and invites "expropriation" and "nationalization" by other countries.

We have demonstrated that there is nothing in the Japanese Peace Treaty or in any subsequent international arrangement which prevents Japanese nationals from accepting the return of their private property. Indeed, we have suggested a number of reasons which cause the Japanese to believe that the United States ultimately will return this private property.

We have developed a case of discrimination against the Germans and the Japanese, in that Italians, Hungarians, Bulgarians, Rumanians, and Austrians, who were also engaged in World War II against the United States, have legislation providing for the return of their private property, but that only the Germans and the Japanese of our World War II enemies are without such remedial laws. We even submit that the United States has violated our treaty obligations with both Germany and Japan in that we have not treated them as "most favored nations" in this specific regard.

We have presented the case of Japanese private property in the Philippines which was vested when that Republic was part and parcel of the United States, but which has been given to the new Government in spite of the specific understanding in the Peace Treaty that this "retained property" was to be in lieu of reparations. Japan has faithfully lived up to her obligations under the Peace Treaty, including the arrangement for the payment of reparations to the Republic of the Philippines.

We have explained the arrangement under which Japan will repay postwar economic assistance from this country, neglecting only to mention that there are many in Japan, including the Socialists, who believe that this postwar aid was intended as a humanitarian gift and not a bona fide debt to be repaid.

Some suggestions have been heard that Japan should attach a reservation or condition that this postwar aid repayment would be made only if the United States agrees to return Japanese private vested property. We find this suggestion difficult to understand, for politically speaking, this would mean that the Japanese would be seeking preferential treatment for only those of her nationals who lost their property in the United States. Keeping in mind that many more Japanese lost many times more in the way of private property in China, Manchuria, Korea, etc., as a consequence of Japan's defeat, this type of condition by the Japanese Government would only invite criticism and opposition, and, what is more, might well be unacceptable to this country.

Be that as it may, however, we venture that this unique situation is which Japan now finds herself provides the United States with a most dramatic opportunity to demonstrate to the peoples of Asia and Africa the basic and fundamental difference between the free enterprise, democratic system and the totalitarian, communistic slave state.

Most of the overseas Japanese private property which was confiscated during and after World War II was located in what is now Red China. The Chinese Communists are not only threatening aggression throughout southeast Asia but also challenging the Soviet Union as the principal advocate of communism. The leaders of both Red China and the Soviet Union covet Japan, which remains on their Pacific flank as the showcase of democracy and free enterprise, knowing that if the trained manpower and the productive facilities of Japan could be won over to their side, the balance of world power most surely would be with them.

The leaders of Red China boast that communism is the quickest and surest way in which the semifeudal, often semibarbaric, underdeveloped countries newly emerging as independent nations in Africa and Asia can boost themselves from their relatively primitive status into the nuclear space age and be competitive with the advanced Western Powers. They point to their own advancements and achievements in the past decade as proof of their superior way.

In all of the Asia-Africa vastness only Japan stands as the sole example of what a "non-European" nation may accomplish as a democratic, capitalistic country.

Would it not be meaningful in terms of our international goodwill to return this vested private property to the Japanese at this time and thereby underline the sanctity of private property which marks our system apart from that of the Communists? For, unfortunately, our present policy, which is tantamount to confiscation, bears a melancholy resemblance to Communist practice.

By so doing, we would not only enhance our international image, and also solidify our position in Japan, but we would also be reaffirming historic American principles and practices at a time when we and the world need to be reminded that our way of life is better and offers greater freedom and opportunity.

Mr. MACK. Mr. Robert Reiter.

STATEMENT OF ROBERT H. REITER, WASHINGTON, D.C.

Mr. REITER. I will simply refer to a few matters in my statement.

May I at the outset endorse the statement made by Mr. Alk this morning, by indicating his case is not a unique one, where people who were not Germans were caught in Germany, by reason of health, or other reasons, and were, therefore, technically considered enemies and therefore deprived of the return of their property.

These people are in a special category and should, therefore, be given special treatment; and should be therefore entitled to the return of their property if it is not the intention of the Congress to make a confiscation.

We represent a Haitian national, Wilhelm Bosch, who found himself in the same position. Mr. Bosch is presently in his late eighties and is destitute as a result of the fact he was caught in Germany and all of his savings were in the United States.

I should mention my name is Robert H. Reiter, and I am an attorney with the firm of Spaulding, Reiter, and Rose, in Washington.

I want to mention two other things. I am concerned first of all that my friends here in the room and I have been coming up here many, many years in the hope of finding some solution to this matter, and there are a great number of political problems involved.

I would like to pose this possibility as to a solution:

The Bundestag suggested in March, and again in June, as I have outlined in my statement, that they were prepared to negotiate a settlement of the matter of vested assets.

As I understand they are willing to pay a very substantial amount of money for the payment of American claims against Germany. They are not so terribly concerned with the I. G. Chemie matter, the Farben matter that is involved in the courts, and I believe would be prepared to negotiate, based upon an exclusion of this matter, for decision by the courts of this country, and also any international tribunals.

This would then substantially ameliorate the seriousness of our problem.

If, for example, in their desire to help the smaller people who really have suffered as a result of the confiscation program they were prepared to accept the return of the small vestings and would put up a substantial amount of money, and I mean in hundreds of millions of dollars, perhaps, or somewhere in that line, toward the payment of American claims, here, then, we would have an end, finally after 15 years after the war, to this problem of where do these funds come from to pay the Americans.

Do we establish a rule of confiscation or not.

Of course, these negotiations are a matter for the State Department.

I would suggest in view of the very favorable statements within the German Government, within the Bundestag over there, that we attempt, if possible, to stimulate some kind of negotiation toward a settlement of this matter whereby a peaceful agreement can be arrived at without attempting to, so to speak, knock heads, confiscate, or having to appropriate American citizens' money for the payment of these various types of claims.

More particularly, however, I am interested in just a few categories of claims. We represent people on both sides of the picture, both people who had property vested and Americans who have claims.

I am concerned that the only mention of personal injury claims made in the administration bill is that involved in the *Athenia* sinking before we entered the war.

I want to point out that there are a number of people who were unable to escape from Europe and these were Americans at that time, I suggest, and who, as a result, were imprisoned and injured by the action of the enemy governments.

These people, I would say, are certainly at least as entitled as are people who lost property to receive some compensation.

I refer specifically to a nurse who was in Poland where there was no American representation. There was nowhere she could turn to for aid.

She was sent to a concentration camp, and lost the use of her feet. She is presently in New York unable to work and practically a public charge.

This kind of person, I think, is entitled to some consideration.

The question has been posed by the State Department representatives of giving some relief to people who could have gotten out of Europe and, therefore, could be said to have assumed the risk of their staying there.

I say perhaps this kind of limitation should be put on, but certainly in the language that I have suggested as a possible amendment on page 3 of my memorandum, I think provision should be made for those who could not get out and who were injured, not by reason of their own wanting to stay there, but by reason of the fact they were subject to enemy action and improper treatment during imprisonment.

Let me say that there are five bills before this subcommittee dealing with that particular problem.

Secondly, I feel that Americans who had property seized, who inherited money from persons in Europe, should also be entitled to consideration. I have one particular case in mind, of a woman whose husband was caught in Europe and therefore, was considered as a

foreign resident. She had the money in her hands, but it was decided that due to some kind of technical problem in a power of attorney it belonged to him. He was caught in Europe. She was an American citizen over here and she could not get the money.

This money is to be confiscated?

Mr. GLENN. What was his citizenship?

Mr. REITER. He was a permanent resident of the United States and a German national who was caught in Germany on a business trip.

Mr. GLENN. He was not an American citizen?

Mr. REITER. He was not; she was.

For this reason the court held, since he was resident in Germany, she could not have the money although it was in her name and her bank account.

This was the result of their joint effort during their entire lives. She is living up here in Staten Island and is in dire need of help.

Finally, I feel that the same consideration should be given to the cases of estates and trusts where I think it has been the historic policy of our Government and generally throughout the world, to encourage the leaving of bequests and legacies to people abroad, to members of the family.

There is one bill, that of Mr. Heistand, before the subcommittee, dealing with trusts, which I think is quite salutary, but which I think should be extended to estates.

There is the bill by Mr. Bush and Mr. Saltonstall in the Senate, which was acted upon favorably by the Senate subcommittee dealing with this problem.

I think basically the thing I am most interested in is getting some determination made.

According to Mr. Mack's bill only a procedure would be established for the consideration of these claims.

Presumably the idea would be that once these claims were ripened into awards there would be a great deal of agitation to get some means of payment.

Well, there is 4 years provided for the Commission to take care of adudicating these claims and then perhaps we start at the end of 4 years to find some means of paying these claims.

These people are getting old, both the people abroad and the people here.

I fear that it may be too late for most of them if we have to wait that long.

For that reason, I feel that every effort should be made to arrive at some settlement with the foreign governments involved, particularly since, as in the case of Germany, and I think also in the case of Japan, there is a great feeling that this thing should be settled, and a willingness to come up with some money for the purpose of settling this overall problem so that we are not compelled to consider for another 15 years perhaps how to take care of these questions, at which time all the people will undoubtedly be dead and it will be a moot problem at that point.

Thank you very much.

Mr. MACK. You agree we should settle the American claims, do you not?

Mr. REITER. Yes, but I think there is something that should also be said on the part of these people abroad, like these people who were compelled to stay there, like the Dutch people, on the part of the Haitian national, and the part of the people who inherited money from Americans.

These little people deserve to be paid their money. Not so much the big corporations. I have heard they will put up in Germany $100 to $200 million to help Americans be paid their claims.

Mr. MACK. It should be done as soon as possible.

Mr. REITER. As soon as possible.

I encourage the committee perhaps to suggest that the State Department enter into these negotiations without any delay.

Mr. MACK. Are there any questions?

Thank you very much.

Mr. REITER. Thank you, Mr. Chairman.

(Mr. Reiter's prepared statement follows:)

STATEMENT OF ROBERT H. REITER

My name is Robert H. Reiter. I am a practicing attorney and a member of the law firm of Spaulding, Reiter & Rose, 1311 G Street NW., Washington, D.C. Our firm has been active in the fields of alien property and war claims for a number of years, and represents a number of clients interested in the legislation being considered by your committee in these hearings.

I. ENEMY PROPERTY AND WAR CLAIMS

First, I would like to address myself to the practical problem of finding a solution to the two conflicting questions involved in this legislation which have for the over 15 years since the end of the war presented finalization of the legislation. First, we have the interests of Americans who suffered losses of property and personal injury and suffering during the war. These people are getting older and if they are to receive any benefit from claims legislation, it cannot be too long delayed. The form of the administration bill would create a claims adjudication procedure but not means of payment, and although once awards are made under the claims procedure undoubtedly there would be considerable pressure for implementing legislation, a period of 4 years is to be allowed for the completion of the claims adjudication, and again a long period of delay is involved without any definitive solution to the real problem—where does the money come from?

On the other hand, we have the position of the persons whose property was seized in this country. Many of these people are now Americans. Most are small individuals who inherited money of property from estates of Americans, or had savings here. By this time most are becoming advanced in age. If they are to be helped, relief cannot long be delayed.

You are, of course, aware of the political problems involved in this subject, both in foreign relations and domestic fiscal considerations Also, there is the practical problem of differences in view on both sides of the Capitol. Much can be said, and has been said, in the multipliicty of hearings on the subject over the years on both sides. It is my feeling that what this committee should do before enacting piecemeal and incomplete legislation is to exhaust the possibilities of a full solution.

Of course, this is largely a matter of foreign relations in the proper province of the Department of State. However, there is no reason why this committee cannot stimulate further consideration of a settlement. The principle foreign government involved, West Germany, has indicated a willingness and desire to engage in further discussions. As recently as June 14 of this year Deputy Foreign Minister Carstens was asked the following question in the West German Parliament:

"Can the Federal Government promise that, in view of the bills introduced in the American Congress for a settlement of American war claims, the negotiations with the American Government on a settlement of the vested assets in the United

States, announced by the Foreign Minister on March 8, 1961, will be taken up as soon as possible, as is in my opinion the common desire of the House?"

The reply of Dr. Carstens was as follows:

"Sir, I can answer your question with 'Yes.' The Federal Government intends to take up these negotiations as soon as possible."

There is a general feeling that the stumbling block to such negotiations is the *General Aniline* case, which may drag on in the courts of this country and international tribunals for years to come. However, I do not think that to be true. I feel that the *General Aniline* case can be largely divorced from any settlement at this time. If is after all a dispute principally between the United States Government and Swiss interests. The German Government has indicated that it is interested in the properties of the individuals and would be willing to consider a settlement which would leave the GAF assets to be disposed of by proper judicial proceedings. What would be involved would be the return of the German assets which are in a position to be returned by the United States, against the payment by Germany of a sum to be used to pay American war damage claims. It is entirely possible that sufficient funds could be obtained in this manner to cover the American claims without requiring an appropriation for the purpose.

Certainly, in light of the attitude of the German Government, the possibility of settlement, which would permit the final solution of both the alien property and war claims issues, should be explored further.

II. PERSONAL INJURY CLAIMS

Section 202(d) of the administration bill would provide for the payment of personal injury claims of Americans injured or killed between 1939 and 1941 on the high seas, to take care of the *Athenia* victims. However, it takes no account of the Americans who were caught in the enemy-occupied areas without the possibility of escape and were sent to concentration camps as Americans and otherwise injured. For example, Louise Gorna, of New York, an American nurse, was caught in Poland when the Nazis overran the country. She tried desperately to escape, but there were no American representatives or others to whom she could turn, and she was caught by the Nazis and sent to the Auschwitz concentration camp due solely to her American citizenship and forced to make the infamous march to the Ravensbruck concentration camp, as the result of which she lost the use of her feet and has been an invalid even since, unable to practice her profession.

Similarly there is the case of Jeanne Toscano, of Connecticut, and now living in Florida, who was caught in Germany and injured in a leap from a hotel under bombardment, after having been pursued by the Gestapo. She has been hospitalized and has never fully recovered, her nervous condition presently bordering on insanity.

Are not Americans suffering this type of injury at least entitled to the consideration accorded to persons suffering property damages? Similarly, Carl Hauss, of Ohio, was imprisoned by the Germans after their occupation of Italy, and tortured, ruining his health. The War Claims Commission recommended payment of these claims, but the administration has excluded them. There seems to be some feeling against the payment of claims on the part of Americans who could have escaped, and who could perhaps be said to have assumed the risk of staying abroad. For this reason I would respectfully suggest the amendment of section 202(d)(2) of the administration bill to provide for the payment of claims for loss or damage on account of:

"(2) Injury or permanent disability sustained by any person, who being then a civilian national of the United States and (*a*) a passenger on any vessel engaged in commerce on the high seas, was injured or permanently disabled as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941, *or* (*b*) *being unable to leave an enemy-occupied area, was injured by reason of military action, or enemy imprisonment contrary to the standards established by international law in any jail, prison, or concentration camp during World War II by any government with which the United States was at war during World War II;* awards under this paragraph shall be payable solely to the person so injured or disabled."

The new portions of the provision have been italicized. I would note in passing that the following bills dealing with this subject are before this committee: H.R. 1190 (Mr. Machrowicz), H.R. 3178 (Mr. Stratton), H.R. 4411 (Mr. Derwinski), H.R. 5395 (Mr. Collier), H.R. 5412 (Mr. Rostenkowski), and H.R. 5545 (Mr. Pucinski).

III. RETURN OF PROPERTY TO AMERICANS

In particular there is the need for provision permitting Americans to receive the return of their vested property. As an example, Mrs. Francis von Wedel, of New York, had certain securities in her possession in New York when war broke out, but the Government claimed that due to a technical flaw in the power of attorney by which her husband, who was caught in Germany by the war, transferred the property to her, it had the right to seize it. Her husband became deceased, and Mrs. von Wedel, who was an American citizen during the entire war and residing in this country, has been unable to obtain the benefit of the property. Relief should certainly be granted by the Congress to cover hardship situations such as this. It is noted that H.R. 3866 by Mr. Baring, presently before this committee, would cover such situations.

IV. ESTATES AND TRUSTS

Finally, one other area of vested property calls for special consideration, that relating to estates and trusts established by Americans for the benefit of persons abroad who are not under present law entitled to the return of property. The intention of the Americans who made the provisions for their families abroad should be respected, and also this is one area of property where it would be important to establish a reciprocity for purposes of future cases of persons here and abroad who might otherwise hesitate to establish such provisions.

It is noted that H.R. 1185 of Mr. Hiestand, presently before this committee, relates to the trust aspect of the problem but does not deal with estates, which are equally a part of the picture. S. 291 of the present Congress, by Mr. Bush for Mr. Saltonstall and himself, covers both aspects, and was favorably acted upon within the Senate committee during the last Congress.

Mr. MACK. Mr. David Ginsburg.

I regret that we do not have more time to allot to the witnesses this morning, because I know that they are vitally interested in this subject and had planned on making a more extensive presentation.

Mr. Ginsburg.

STATEMENT OF DAVID GINSBURG, ON BEHALF OF THE SOCIETY TO STUDY PRIVATE INDUSTRY ABROAD, WASHINGTON, D.C.

Mr. GINSBURG. Mr. Chairman, my name is David Ginsburg. I am an attorney engaged in the private practice of law here in Washington.

I have appeared before the committee before.

My testimony is in the hearings of 1959 beginning on page 356. I expected to speak a little at somewhat greater length this morning, but I think it would be well in view of the time limitations simply to confine myself to a reply to one question which Mr. Glenn raised yesterday, and which had not in fact been answered.

He asked why payment on the war damage claim had not been made sooner.

I think it might be well for us to understand what the legal situation is with reference to the war damage claims so far as payment is concerned on the part of Germany.

You will recall that in 1953 the United States, together with 17 other countries, entered into an agreement with Germany in London, called the London Debt Settlement Agreement.

One provision in that agreement—I will read you a few lines from it—is as follows. This is in article V, subparagraph 2:

> Consideration of claims arising out of the Second World War by countries which were at war with, or were occupied by, Germany during that war, and by nationals of such countries, shall be deferred until the final settlement of the problem of reparation.

Then in explanation of that provision these agreements were sent to the Senate and are contained in a Senate document printed on April 10, 1953, in the 83d Congress, 1st session.

In explanation of that article 5 we were told that:

> The principal purpose of this article is to defer the consideration of wartime claims against Germany. These vast claims clearly could not be dealt with on the same basis as other claims arising from normal commercial and financial transactions or the claims for postwar economic assistance. Any attempt to do so would have greatly reduced the Federal Republic's ability to pay the debt covered by the agreement and would defeat the primary objectives of restoring normal commercial and financial relations with the Federal Republic.

So it was under this agreement that consideration of the war damage claims against Germany were deferred.

That, I suppose, is the primary reason why this matter has not been dealt with on the part of Germany before this time.

Now, under this agreement Germany assumed an obligation to pay some 14 billion marks, about $3½ billion of prewar debt, about a billion dollars on account of their postwar economic aid debt, a billion dollars that is paid in reparations to Israel and so on.

These obligations were assumed and the others were deferred.

What has been proposed in various bills which are now being considered here is that the United States should not pay the war damage claims—I think that is a misunderstanding—I think what the United States is obligated to do, or will do under one of these bills, is to finance the payment of these claims and then stand in the shoes of the claimants as against Germany at the time of the final settlement so that what we are doing now is financing the payment of these claims and not in fact, discharging them.

The claims will remain to be urged in the final settlement.

Now, so far as concerns the group that I represent, the Society to Study Private Industry Abroad, this is a group organized in Germany of private property owners. We certainly support the principles of the war damage claims. We oppose, of course, the use of the proceeds of the vested assets and support the use of the postwar economic aid funds for the financing of the payment of these claims.

Thank you, sir.

Mr. MACK. Thank you very much.

Are there any questions?

Thank you for your appearance.

Mr. GINSBURG. Thank you.

Mr. MACK. Mr. Charles Bellhaussen.

Mr. David Joffo.

STATEMENT OF DAVID PAUL JOFFO

Mr. JOFFO. Thank you, Mr. Chairman, for the opportunity to testify before this committee.

I came here to support the bill 7283 covering the needs of American claimants, I, being one of them.

I shall not amplify much more on the situation which now is cleared up.

The bill 7283 is fully satisfactory to our American claimants and I shall not take more of your time.

I am amplifying my statement in a written page which I will be very thankful to have recorded in the hearings and I do hope that the provisions which I am stating now, that measures be taken that the whole situation be cleared up in this session of Congress because time has elapsed, people have been waiting too long and if justice is not done quickly then it is something else, it is not justice at all.

I am, therefore, hopeful that in this session of Congress justice will be done to American citizens who invested abroad and were induced to do so by our Government to conduct business abroad and who, therefore, relied on the protection of our Government.

Now, it came to a point that this administration supports the American claimants as expressed in bill 7283 and I cannot add any more except to prayerfully hope that the whole problem will be settled in this session of Congress.

I have my statement here, Mr. Chairman, which I would appreciate to have recorded in the hearings and I am thankful for the opportunity, again, for the opportunity to be heard here.

I shall appreciate your recording this statement in the record.

Mr. MACK. Without objection, your entire statement will be included in the record.

Mr. JOFFO. Thank you again.

(The statement referred to follows:)

STATEMENT BY DAVID PAUL JOFFO

My name is David Paul Joffo. I represent myself. First I wish to thank the chairman of this committee and its members for the opportunity to testify before this body. I came to testify in support of the proposed legislation embodied in H.R. 7283, known as Congressman Mack bill. I appear before this subcommittee as a claimant for payment of World War II industrial property, bank deposits, and accounts losses sustained as a U.S. national, about 23 years ago, resulting from World War II. The properties were destroyed, and was damaged by German armed forces and the bank accounts and deposits looted—all in consequence of the World War II.

I respectfully request this committee to clearly spell out that that moneys on deposit in banks and accounts to be regarded as property and thus leave no doubt in the inclusive meaning of property. Also that claimants be awarded interests on their established bank accounts and deposits as well as on their industrial and other investments. We Americans were induced by our Government to invest abroad and thus justly relied on the full protection of our investments by our Government. And, as businessmen we thus are entitled to a legal interest on the moneys and the total of our investments, and the interest to be paid since the investments and the date of compensation for same.

I also respectfully request this committee to insert a clause in the bill H.R. 7283 and for that matter in any other bills, that the Foreign Claims Settlement Commission be instructed to examine and adjudicate the claims to thus expedite the established claims and consequently not to depend on the conflicting or retarding the procedure incidents, as it was proven in the past. Whereas on the floor of the House the previous bills by this committee were nearly unanimously passed by that body, the Olin Johnston subcommittee and his bill, were retarding the normal procedure of our Congress.

The above clause—if it proves necessary in this session of Congress—will expedite justice for the American claimants. For if justice is not done in time, it is then a bitter injustice against American citizens and businessmen. I am sure that our Congress wants to do justice and only justice. Since that long and painful procedure in retarding justice for Americans, many of the claimants had

already died, and not having got their own money, had left their families desperate. A number of the claimants are desperate and in need of their funds. They, too, will die, if justice is not done soon. Their witnesses had already died and witnesses will continue to die. The documents establishing their claims are gradually getting lost, and all along the line. On the other hand, since the claimants are largely businessmen, when their funds are returned to them while they are still alive, a creative element in our country will thus be revived, and they will again invest their frozen funds in business—and now our own economy needs it and will benefit by it. For these and a number of other reasons the proposed clauses in the Congressman Mack bill and the other bills will insure ways to expedite the compensation of American citizens, and put an end at last to a sad case of inaction when action is so badly needed, and thus justice done.

The Eisenhower administration was anxious to do justice for American citizens. Our present Democratic administration is as anxious to do justice. We entered into an agreement with the Bonn government in 1952 that the former German vested interests in our country and now the property of our Government be used for the compensation of American citizens who as a result of the World War II lost their investments and properties—and this in lieu of our foregoing indemnities, loans in billions which we turned into gifts for Germany. The agreement freely entered between the two respective governments, and very generous on our part, was ratified by the Senate in 1955. It is now an American law. Why did not we fulfill that law since and there is no certainty that it will be fulfilled in this session of Congress.

We are, however, hopeful, that the irreparable losses to American citizens will terminate in this session of Congress and that bill H.R. 7283, will be expedited and acted on, as will the administration bill in the Senate. And this not only in the interests and justice for American nationals, but also in the interests of our country.

Mr. MACK. I am sponsoring H.R. 5028, which I strongly support.

At this point I will include a statement in behalf of that bill as part of my remarks.

(The statement referred to follows:)

STATEMENT OF HON. PETER F. MACK, JR.

H.R. 5028 is identical to H.R. 6462, which passed the House last year but was not acted upon by the other body. It would make available from the alien property fund the sum of $500,000 for relief and rehabilitation of needy victims of persecution by Nazi Germany now living in the United States.

During World War II the United States, under the Trading With the Enemy Act, vested property in this country owned by enemy nationals. Public Law 671 of the 79th Congress, however, provided that vested property could be returned to those former owners, or their successor interests, who had suffered denial of "the full rights of citizenship" in an enemy nation because of political, racial, or religious discrimination.

Many persons who could have recovered their property under Public Law 671 were exterminated with their families by the Hitler regime, leaving no hears. Any property which they left in this country and which was vested by the Alien Property Custodian became known as heirless property.

The United States, on numerous occasions, has taken the position that this heirless property, or proceeds from its sale, should be used for the relief and rehabilitation of surviving persons who were persecuted. Section 32(h) of the Trading With the Enemy Act, as amended, authorized the return of up to $3 million in vested property to one or more organizations designated by the President as successor in interest to deceased persecuted persons. President Eisenhower, by Executive order in 1955, designated the Jewish Restitution Successor Organization to perform this function. The organization presently has pending with the Alien Property Custodian a total of 1,800 claims, but no payments have been made, primarily because of the difficulty of proving ownership of specific assets.

H.R. 5028 would solve this problem by providing for a $500,000 lump-sum payment in settlement of all claims under section 32(h). This bill raises no new question of policy. It merely would provide a simple and prompt method of carrying out the policy previously adopted by Congress.

I have received a letter in support of H.R. 5028 from Mr. Monroe Goldwater, president of the Jewish Restitution Successor Organization. The letter follows:

JEWISH RESTITUTION SUCCESSOR ORGANIZATION,
New York, N.Y., July 28, 1961.

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MACK: The Jewish Restitution Successor Organization (JRSO) and its member organizations respectfully request that your committee report favorably on H.R. 5028, the heirless property bill. This bill is identical with H.R. 6462, which passed the House of Representatives during the last session, and which was approved by the Senate Judiciary Committee. The Senate was not in a position to act on it during its second session.

Hearings were held by your committee prior to passage of H.R. 6462 by the House. We believe, therefore, that only a brief recapitulation of the principal points in support of H.R. 5028 is necessary:

1. The bill provides for a lump-sum settlement of $500,000 for claims of heirless property vested by the Office of Alien Property. These claims arise from the vesting of the property of victims of Nazi persecution who perished with their entire families. Congress recognized the tragic origin of these assets and enacted legislation in 1954 which authorized successor organizations appointed by the President to recover such assets and apply them for the relief of surviving Nazi victims who are now citizens or residents of the United States.

2. The President subsequently designated the Jewish Restitution Successor Organization, a charitable New York membership corporation, which had already earned the commendation of the U.S. authorities for its work in handling a comparable problem in the American Zone of Germany. Together with the Department of Justice (Office of Alien Property) the JRSO has worked zealously to weed out the claims, to reduce them to manageable proportions, and to establish procedures under which the purpose and intent of the law could be carried out.

All involved, however, reached the conclusion that the processing of individual claims, case by case, is an impossible task. There still remain thousands of claims, many of them small in amount. A number of claims involve complicated facts, and hearings on them would consume more time of the Government and the JRSO than the amounts involved would warrant.

3. For the above-mentioned reasons, the administration and the JRSO agreed that a bulk settlement of the claims is the only reasonable solution.

4. H.R. 5028 is only a procedural bill. The claims with which it deals are already valid claims under existing law. It involves no policy change. On the contrary, it is designed to bring about immediate and effective implementation of the humanitarian objective approved by Congress nearly 7 years ago.

5. During the last session of Congress, Senator John F. Kennedy actively supported an identical bill in the Senate. He stated, "I urge that the Senate pass this bill (H.R. 6462). * * * A bulk settlement is in the interest of both the U.S. Government—which would otherwise be faced with administrative costs of an enormous amount in proportion to the total of the claims—and the surviving persecutees, who are in desperate need" (Congressional Record, Sept. 1, 1960, p. 17653).

The JRSO urgently request that your committee affirm its support of H.R. 5028 in order to achieve an immediate and overall settlement of these claims and assure, after a lapse of more than 16 years since the end of World War II, some relief now to surviving Nazi victims residing in the United States.

On behalf of the Jewish Restitution Successor Organization, I respectfully request that this communication be inserted appropriately in the record of your hearings which are scheduled for August 2 and 3.

Sincerely yours,

MONROE GOLDWATER, *President.*

Mr. MACK. Are there any other witnesses today who desire to testify in behalf of the bills being considered?

All right.

The committee will conclude the hearings on this subject and the committee will stand adjourned.

(The following material was submitted for the record:)

U.S. SENATE,
COMMITTEE ON BANKING AND CURRENCY,
August 8, 1961.

HON. PETER F. MACK,
Chairman, Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: I deeply appreciate the courtesy of the subcommittee in permitting me to submit this statement relative to amendments proposed to the War Claims Act of 1948 by House bills H.R. 1190, H.R. 3178, H.R. 4411, H.R. 5395, H.R. 5412, and H.R. 5545. I regret that Senate duties have prevented me from appearing before your subcommittee to express my strong support of the principle embodied in these bills.

As you know, I have introduced in the Senate, with the cosponsorship of Senator Hart, of Michigan, a similar bill, S. 1796, on which I hope a subcommittee of the Senate Judiciary Committee will soon hold hearings.

The intent of all these bills is to amend the War Claims Act of 1948 to extend certain benefit rights, now granted by that act, to persons who were U.S. citizens at the time they suffered losses at the hands of our enemies during World War II, to persons who were not American citizens at the time they suffered the same losses but who have subsequently become citizens.

My bill and those you have before you would add two sections to the War Claims Act of 1948, as amended. Section 18 of my bill would provide for payment of prisoner of war and civilian imprisonment claims to persons who are U.S. citizens on the date of enactment of this amendment and who were imprisoned by enemy nations while citizens of the United States or of governments allied or associated with the United States during World War II. Section 19 would provide similarly for internment, deportation, and forced labor claims. Both sections contain clauses insuring that no claimant shall receive duplicate compensation for the same loss.

The bills before your committee would establish similar eligibility under the War Claims Act, except that whereas my bill would extend eligibility to claimants who are U.S. citizens on the date of the bill's enactment, the House bills would also make eligible permanent residents of the United States.

I would like to make clear at this point, Mr. Chairman, that I am not asking your committee to adopt my language; all of these bills are offered in the same spirit and with the same just principle in mind. I have submitted my bill to the Senate in its present form providing more limited extension of claim rights because, in my opinion, the justness of these amendments calls for immediate action and I had hoped the compromise of a limited extension—to citizens only—would attract the approval of the Congress this year.

It may well be that your committee will suggest other limitations and priorities which will obviate the need for the limitations in my bill.

In testimony before your committee, it has been pointed out, on the basis of the data secured by various organizations of former prisoners of war and by associations of former political persecutees, that if claimant eligibility is extended to present citizens and permanent residents the total number of claimants would be approximately 50,000. Based on these same estimates, my version of the bill would make eligible for claims about 34,000 citizens, with an average claim of a little over $1,800. These claims would amount to less than $62 million.

Based on these same estimates, my bill would authorize additional claims as follows:

Douglas bill, S. 1796

	Total		Estimated total amount of claims
	Estimated number of possible claims	Average claim	
Poles	23,400	$1,800	$42,120,000
Yugoslavs	4,078	2,885	11,765,000
Russians	3,325	1,237	4,113,000
Philippine Army	1,600	1,200	1,920,000
Philippine guerrillas	1,600	1,200	1,920,000
Total	34,003	1,818	61,838,000

The funds to satisfy claims authorized under these bills would come entirely from the war claims fund which contains funds obtained from the sale of assets seized as enemy property. No part of these payments will come from tax revenues. Whether sufficient money will be available from this fund is, I understand, dependent on certain contingencies. I am informed the fund now has an actual balance of between $200,000 and $300,000. In addition, about $100 million in "available free balances," now in the hands of the Office of Alien Property, will come into the fund. Some part of about $120 million now involved in litigation will also probably come into the fund. This would mean a total available of between $100 and $220 million. Most likely there will be a compromise on the disputed $120 million so that we could expect there would be available as "free assets" in the war claims fund somewhat less than the $220 million possible total. It is my understanding that some 75,000 claims remain to be satisfied as proposed by the administration, in the total amount of about $300 million. In the past adjudication of claims has resulted in average awards of about one-third the amount claimed, but we cannot be certain whether this ratio will hold true for the pending claims.

Thus, it cannot be stated with certainty exactly how much money will be available in the war claims fund, but there is a good possibility it will eventually contain sufficient funds to meet the claims authorized by the aforementioned bills. I therefore believe it would be proper and just for the Congress to enact this legislation. It is understood, of course, that if sufficient funds are not available, then no claims or reduced claims will be paid.

Your committee has already received very thorough testimony on these bills from distinguished Members of the House of Representatives and others, so I shall only summarize why I believe this legislation should be passed.

The new citizens of the United States who would be given claimant status under this legislation were victims of our Second World War enemies and generally their contributions to the Allied war effort were significant factors in our victory and in reducing our own human and material losses.

Regardless of various interpretations of international law in this field, there can be no doubt that the Congress has authority to establish the eligibility of claimants who are citizens of the United States. I believe it is unjustly discriminatory to limit eligibility under the War Claims Act to citizens by birth; the new citizens who would be made eligible under this legislation were as directly and as deeply—indeed, in many cases more directly and more deeply—involved in our cause as were the U.S. citizens already given claimant eligibility in the act.

I believe simple justice would be well served by congressional approval of a bill giving claimant rights to these new citizens of the United States.

Faithfully,

PAUL H. DOUGLAS.

COMMONWEALTH BANK & TRUST CO.,
Pittsburgh, Pa., August 8, 1961.

Hon. ROBERT J. CORBETT,
House Office Building,
Washington, D.C.

DEAR SIR: We are writing you in behalf of and to recommend the passage of the bill, H.R. 8305, introduced on or about July 24, 1961, by Representative Glenn Cunningham (Republican, Nebraska).

Justus Mulert, a citizen of the United States and a resident of Pittsburgh, Allegheny County, Pa., died January 18, 1932, and under the terms of his will he created a trust fund of $125,000 and named the undersigned Carl J. Mulert and Commonwealth Trust Co., of Pittsburgh, now Commonwealth Bank & Trust Co., as trustees. The will provided that the trustees shall pay the income of this trust fund to relatives of the testator who resided in Germany. There were seven families of income beneficiaries and following the death of the testator the trustees paid such income to them until, following the declaration of war between the United States and Germany, the Alien Property Custodian issued Vesting Order No. 1122 dated March 23, 1943, wherein he seized the income from the trust fund which would otherwise be paid to the beneficiaries of the will who resided in Germany. This vesting order did not cover the principal of the trust fund, which continued in the possession of the trustee and which has been administered and invested and reinvested from the date of the vesting order until the present time.

Of the seven families of beneficiaries of this trust who resided in Germany, four have died and members of only three families are still living. These three are Dr. Joseph Remele, presently residing in Osnabruck, West Germany; Dr. Botho Mulert, presently residing in Bad Soden, West Germany; and Charlotte Simmgen, who now resides with her husband, Rolf Simmgen, and children in Allegheny County, Pa., with intentions to establish permanent residence there. The Simmgen family is a refugee family having fled East Germany in 1953.

The treaty of peace with Germany was signed in October 1951, and although since that date the income beneficiaries of this trust are allies and friends the trust income due them has nevertheless continued to be claimed by the Alien Property Custodian. Although the act related only to trading with the enemy, nevertheless, the trustees since the treaty of peace have been obliged to pay a total in excess of $14,000 to the Alien Property Custodian.

This indefensible situation is in effect the same as if Congress now passed new legislation to take and appropriate existing private property of German citizens.

We urgently recommend passage of the Cunningham bill, and we ask that this letter be put in the record.

Respectfully yours,

CARL J. MULERT AND
COMMONWEALTH TRUST CO., OF PITTSBURGH,
NOW COMMONWEALTH BANK & TRUST CO.,
Trustees.

By ——— ———, *Vice President.*

JUSTUS MULERT CO.,
Pittsburgh, Pa., August 2, 1961.

Re H.R. 8305 presented by Representative Glenn Cunningham—Return of assets to German nationals.

Hon. PETER F. MACK, Jr.,
Chairman of Subcommittee on Commerce and Finance, House Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR CONGRESSMAN MACK: I understand you are holding hearings on this bill August 2 and 3 and being unable to appear in person to state my opinions in favor of this legislation ask that you make this letter a part of the record of your committee.

I again appeal that justice be done to those German nationals, relatives of my late father, who are deprived of receiving the income of a trust fund established for their use in order that they may have some relief in their old age.

Germany is now an ally of the United States and billions of dollars are being spent in defense of its citizens but still the Government insists on snatching the meager incomes due German nationals provided by an American citizen. This position, to me, seems indefensible and I hope that before long the aggrieved individuals will be able to say that justice has finally prevailed when their accumulated amounts are finally freed.

Very truly yours,

CARL J. MULERT,
Coexecutor of Justus Mulert Estate.

WASHINGTON, D.C., *August 3, 1961.*

In re H.R. 8305, dated July 24, 1961, introduced by Hon. Glenn Cunningham.

Hon. PETER F. MACK, Jr.,
House of Representatives, Washington, D.C.

DEAR MR. MACK: The National Savings & Trust Co. of Washington, D.C., and I, we being cotrustees of three trusts, the beneficiaries of which are three quite impoverished German citizens, namely, Baroness Blanca von Cotta, Baroness Irene von St. Andre, and Baron Alfred von Palm, all residents of the state of Wuerttemberg, West Germany, heartily endorse the provisions of the above-mentioned H.R. 8305 providing for the full return of the trust assets which have been surrendered to the United States.

Unfortunately at the hearing held yesterday, I was not heard because I had not requested before then to be heard, not being aware that it was necessary to request that my name be placed on a list of those desiring to be heard. And then today, the hearings were terminated before I could appear.

We are of the opinion that the full return of the trust assets is required by principles of international law and the historic policy of the United States as announced by Alexander Hamilton, Chief Justice Marshall, Justice Cardoza, John Bassett Moore, Charles Evans Hughes, and Cordell Hull, these last two being respectively the Republican and the Democratic Secretaries of State. In an address on November 23, 1923, Mr. Hughes said: "A confiscatory policy strikes not only at the interests of particular individuals but at the foundations of international intercourse, for it is only on the basis of the security of property, validly possessed under the laws existing at the time of its acquisition, that the conduct of activities in helpful cooperation, is possible * * *. It is the policy of the United States to support these fundamental principles." On May 27, 1935, Secretary Hull, referring to proposed confiscation, said "Such action would not be in keeping with international practice * * *. The confiscation of these private funds by this Government *and their distribution to American nationals* would react against the property interests, some very large, of American nationals in other countries." (Italic supplied.)

The National Savings & Trust Co. and I as trustees submit that long-established policy of the United States requires the full and unconditional return of the assets of the trusts which we represent.

I, Charles T. Tittmann, have testified on various occasions before the subcommittees of the Judiciary presided over at first by Senator Dirksen and later by Senator Olin D. Johnston. In this connection your attention is invited to pages 303–310 of the Senate report of hearings held on July 20, 21, and 23, 1953, containing, among other things, my testimony as well as various exhibits submitted. See also the report of hearings before said subcommittee on November 16 and 17, 1953. See further the final report to Senator Langer from the subcommittee headed by Senator Dirksen.

Not only did the subcommittee headed by Senator Dirksen recommend the full return of assets of Germans and Japanese which belonged to citizens of those countries, but the subcommittee headed by Senator Johnston has taken the same stand. It is submitted that much of the present confusion caused by conflicting interests will be terminated if it be decided to settle the matter by following and adhering to the previously mentioned well-established nonconfiscatory policy of the United States.

In conclusion, I submit for your assistance a statement of the National Savings & Trust Co. and Charles T. Tittmann, cotrustees, which sets forth the material facts concerning the trusts involved.

Respectfully,

CHARLES T. TITTMANN.

WASHINGTON, D.C., *August 15, 1961.*

In re H.R. 8305, dated July 24, 1961, introduced by Hon. Glenn Cunningham.

Hon. PETER F. MACK, Jr.,
House of Representatives, Washington, D.C.

DEAR MR. MACK: The National Savings & Trust Co. of Washington and I thank you for your letter of August 11 wherein you advise that you have directed that my letter to you of August 3, 1961, and the statement forwarded therewith are to be included in the hearing record on war claims and trading with the enemy bills.

The statement mentioned is not as comprehensive of informative as another one which was later submitted to the subcommittee of the Judiciary, which I think was headed at the time by Senator Olin D. Johnston. It was overlooked when my letter to you of the 3d instant was sent.

A copy of this more comprehensive and informative statement is enclosed and the trust company and I would greatly appreciate it, if this more comprehensive statement could be inserted in the record in place of the one forwarded with my letter of the 3d instant. Permit me to invite your attention to the marked portions of this more comprehensive statement. These include not only views expressed by distinguished jurists and Secretaries of State, but also by Hon. Sam Rayburn. The latter strongly opposed the confiscation of private property of former enemy aliens. For Mr. Rayburn's views, see page 4 of the enclosed statement.

Respectfully,

CHARLES T. TITTMANN.

STATEMENT OF NATIONAL SAVINGS & TRUST CO., AND CHARLES TROWBRIDGE TITTMANN (COTRUSTEES)

A brief history of the above trusts and the material facts are substantially as now set forth.

The National Savings & Trust Co. and Charles T. Tittmann are surviving cotrustees under trusts established in April and May 1924 by the three above-named individuals for the benefit of themselves and their survivors, with money given to them in 1924 by their grandmother, Baroness Josephine von Waechter, a former American citizen, who died in Germany about the year 1930.

The Baroness Josephine von Waechter was Miss Josephine Lee, the daughter of David Lee of New York City, and was born in New York in the year 1833. In 1856 she married the Baron von Waechter at the Tuileries Palace in Paris, the baron then being the minister to the French court from the Kingdom of Wurttemberg. Miss Lee thus became a German by marriage and at the time of her death lived in Stuttgart, Wurttemberg, Germany.

Prior to her death, the Baroness von Waechter (nee Lee) owned certain valuable property in the United States. It had been sequestered by the Alien Property Custodian during World War I. However, the property was restored to her after the end of World War I. Thereupon she donated a portion of her American property to her three grandchildren, Baroness von Cotta, Baroness von St. Andre and Baron von Palm.

Early in 1924 the three grandchildren placed what they had received from their grandmother in trust with the National Savings & Trust Co., Charles T. Tittmann and the late Reeves T. Strickland, as cotrustees to preserve, invest, and manage the trust assets and to pay the net income therefrom to said grandchildren for life and to their children and/or other relatives after their deaths. The trusts established by Baroness von Cotta and Baron von Palm were established by trust instruments executed on April 12, 1924, and the trust established by Baroness von St. Andre was established by an instrument executed on May 4, 1924.

Until on or about December 7, 1941, the net income from the trusts was remitted to the three grandchildren who had established the trusts. Prior to the time when the United States prohibited sending remittances to Germans, demands were made by the grandchildren upon the trustees to liquidate the trusts and send the proceeds to them. Believing these demands were made as the result of pressure from the Hitler government, the trustees did not comply with the demands. The trustees also did not comply with the demands because they believed the trust assets would be lost forever if sent to Germany and because they believed that to preserve them, they should be retained in this country.

But now the Office of Alien Property proposes to confiscate the trust assets, worth with interest approximately $250,000. If this should be done it will nullify the purpose of the patriotic stand of the trustees, namely, to keep the assets out of the hands of the Hitler government and at the same time to preserve the assets for the grandchildren. The trustees' action to preserve the property will have been taken in vain if the assets should be confiscated.

A number of bills have been introduced in the Senate and House of Representatives dealing with the proposed release to former alien enemies of their private property in the United States which has been sequestered by the Office of Alien Property.

Reports of the American Bar Association show that the association opposed the confiscation of private property of former alien enemies. Two pages of the association's report in volume 68 are most pertinent because they contain extracts from opinions of Alexander Hamilton, Chief Justice John Marshall, Justice Cardozo, Secretary Hull, and Secretary Hughes, all of whom condemned in no uncertain terms the confiscation of private property of former enemy aliens. (See pp. 454 and 455 of vol. 68.)

To confiscate private property in this country belonging to former enemy aliens is a procedure contrary to the best practice of civilized nations, the principles of international law, and the long-established policy of the United States. It is the kind of action to be expected of a communistic nation such as Soviet Russia. Communism refuses to recognize private property rights.

It is now very definitely in the public interest of the United States to cement and develop ties of friendship between the United States and Germany and one of the best methods of doing so is to return to German owners their property sequestered or confiscated by the United States. Old passions have largely subsided and new considerations have arisen making it definitely in the interest of the United States to have Germany as a friend and ally. Let us not lose sight of Chancellor Adenauer's appeal of March 7, 1954, for the return of the private property of Germans.

Over 30 years ago, namely on December 8, 1923, the United States and Germany concluded a treaty which protected the lives and property in the United States of Germans to the same extent that the lives and property of American citizens were protected in the United States and Germany granted similar protection to the lives and property of Americans in Germany. Contrary to that treaty, on July 3, 1948, Congress enacted the statute under which all private property in the United States of Germans and Japanese is to be confiscated without compensation (sec. 12, War Claims Act of 1948, amending the Trading With the Enemy Act of 1917 by adding sec. 39).

When these three grandchildren placed the gifts to them in trust here in the United States, they relied on the treaty of 1923 guaranteeing their rights to property in the United States.

Counsel for a Senate Judiciary Subcommittee, Senator Dirksen presiding, at public hearings on November 16, 1953, among other things showed that liquidation of the assets subject to confiscation would take from 20 to 50 years and would cost the United States more than could be realized. Hence it is not surprising that the Senate Judiciary Committee on February 8, 1954, adopted the subcommittee's final report recommending the return of private property to persons not convicted of war crimes and that property of persons in Communist-controlled areas be held in trust for them.

In taking its stand, the Judiciary Committee was motivated by many considerations, for example, that confiscation of private property violates international law and the historic policy of the United States as announced by Alexander Hamilton, Chief Justice Marshall, Justice Cardozo, John Bassett Moore, Charles Evans Hughes, and Cordell Hull, these last two being the Republican Secretary of State and the Democratic Secretary of State, respectively. In an address on November 23, 1923, Mr. Hughes said:

"A confiscatory policy strikes not only at the interests of particular individuals, but at the foundations of international intercourse, for it is only on the basis of the security of property validly possessed under the laws existing at the time of its acquisition, that the conduct of activities in helpful cooperation, is possible. * * * It is the policy of the United States to support these fundamental principles."

On May 27, 1935, Secretary Hull said:

"Such action would not be in keeping with international practice. * * * The confiscation of these private funds by this Government and their distribution to American nationals would react against the property interests (some very large) of American nationals in other countries."

The previously mentioned views condemning confiscation of private property of former enemy aliens expressed by Hamilton, Marshall, Cardozo, Hull, and Hughes as set forth on pages 454 and 455 of volume 68, American Bar Association reports, also will be found copied on pages 308 and 309 of the published report of hearings on amendments to the Trading With the Enemy Act held on July 20, 21, and 22, 1953, before a Senate Subcommittee of the Judiciary.

Attention also is invited to Hon. Sam Rayburn's speech of December 20, 1927, reported in volume 69, part I, page 883, Congressional Record, where, among other things, Mr. Rayburn said that before the time of Hamilton, Marshall, and Jefferson—

"* * * all civilized nations had looked upon the question of confiscating private property for the satisfaction of a public obligation with obloquy. That has been our policy. * * * If the American Government had never by congressional action announced that as a policy to the world, this greatest and most powerful Nation upon the earth today should be the leader and step out and announce the policy as the permanent and continuous policy of this Government."

Not only does the confiscatory statute of 1948 violate international law and the treaty of 1923 between the United States and Germany, but in violating that treaty it breaks the pledge of security of property given to Germans who in reliance on that treaty left their property here in the United States. The confiscatory statute also has resulted in many outrageous and unlooked for situations, one of which, for example, involved a young soldier in our Army whose aged parents remained in Germany after he emigrated to the United States. He joined our Army, was wounded at Anzio and was killed in the invasion of Normandy, being awarded the Bronze Star posthumously. His parents were denied his securities and funds in the United States, worth over $14,000 although the Alien Property Office generously allowed them to receive $2,000 of insurance on the young man's life. The Office of Alien Property confiscated the securities and funds worth about $14,000.

Another curious and unexpected situation involves a female descendant of Senators Newlands and Sharon, both former Senators from Nevada. Senator Newlands married a daughter of Senator Sharon. Their daughter married a German nobleman. A descendant of the last-mentioned marriage, living in Nevada with five children and having a sixth in the U.S. Armed Forces, was denied the income from trusts established by the two Senators for their descendants.

The new Germany has made a wonderful revival and by the London Debts Agreement has undertaken to settle her prewar and postwar debts, thereby showing a clear desire to live up to her treaty obligations and to respect private property. As Senator Wiley said on July 13, 1953 (vol. 129, Congressional Record, 83d Cong., p. 8923): "we are getting more money back from Germany than we have received from any other nation to whom we have made loans."

Under all the circumstances, the United States should return to the enlightened principle of nonconfiscation of private property of former enemies and at an early date should grant Chancellor Adenauer's appeal of March 7, 1954, for the nonconfiscation of and return of the private property of Germans.

I now wish briefly to call attention to a most important principle of which sight seems to have been lost in recent years and also during the consideration of the various bills for the return of the private property of former enemy aliens. I submit that the principle now to be mentioned should receive the very greatest weight in deciding upon the restoration matter.

It is a fundamental principle of our country that the right to lawfully acquire and own property is one of the greatest and most precious of human rights. This was understood by the leaders of our American Revolution who signed the Declaration of Independence and framed the U.S. Constitution. John Adams

said it was a self-evident axiom that "property must be secured, or liberty cannot exist." He also said: "The moment the idea is admitted into society that property is not as sacred as the laws of God and that there is not a force of law and public justice to protect it, anarchy and tyranny commence." (For example see present day Russia and China.)

The American Republic was founded on the principle that property is a natural right. The two big revolutions of the 20th century, the Russian and Chinese revolutions, have been based on opposite assumptions. Both the Russians and Chinese systems are committed to the doctrine that there is no such thing as a sacred right to property.

By an agreement between the United States and Germany approved by the Senate on July 31, 1953 (Congressional Record, vol. 99, No. 136, pp. 9623, 9643–45) the provisions of the Treaty of Friendship, Commerce, and Consular Rights between the United States and Germany of December 8, 1923 (44 Stat. 2132) were restored to full force and effect although the agreement contained certain modifications of the treaty of 1923. The treaty of 1923 provided among other things, that the nationals of both countries should enjoy "the most constant protection and security for their persons and property." Observe the word "property."

Are we now to disregard the provisions of the treaty of 1923 assuring protection to Germans of their property in the United States? And are we to depart from the early basic principles of our country with regard to the sacred nature of rights to property, even though the property involved is that of former enemy aliens, Germans, whose rights to property were safeguarded by the treaty of December 8, 1923?

To confiscate the property of these three elderly persons, is to take their property in violation of the pledge given them by our Government in the treaty of 1923 on which they relied and also is to apply and follow the tenets of Russian and Chinese communism. Surely, our country will not violate its pledge of security and will not adopt the communistic line as it will be doing if it does not permit the return of private property in the United States belonging to Germans.

Attention previously has been invited herein to the views expressed by Hon. Sam Rayburn (p. 4), Secretary of State Charles Evans Hughes (p. 3) and Secretary of State Cordell Hull (p. 4) each of whom strongly condemned the confiscation of private property of former alien enemies. Now in conclusion it is deemed advisable to invite attention to the similar views held by the following distinguished Americans:

Alexander Hamilton, in defense of article X of the Jay Treaty of 1794 (Works of Alexander Hamilton (Lodge's edition), vol. V, pp. 412 et seq.), wrote as follows:

"No powers of language at my command can express the abhorrence I feel at the idea of violating the property of individuals, which in an authorized intercourse in time of peace has been confided to the faith of our Government and laws, on account of controversy between nation and nation. In my view, every moral and every political sense unite to consign it to execration."

Chief Justice Marshall, in *United States* v. *Percheman*, 7 Pet. 51, 86, said that, even in cases of conquest "the modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated."

John Bassett Moore, in his Digest of International Law, volume 7, pages 312, 313, says that the correct modern view is that enemy private property ought never to be confiscated and that the exercise of the right is both ancient and barbarous. In *Techt* v. *Hughes*, 229 N.Y. 222, where the plaintiff was an Austrian, Judge Cardozo stated (pp. 244–245) as follows:

"The plaintiff is a resident; but even if she were a nonresident, and were within the hostile territory, the policy of the nation would not divest her of the title whether acquired before the war or later. Custody would then be assumed by the alien property custodian. The proceeds of the property, in the event of sale, would be kept within the jurisdiction. Title, however, would be unchanged, in default of the later exercise by Congress of the power of confiscation (40 Stat. ch. 106, pp. 416, 424), now seldom brought into play in the practice of enlightened nations (2 Westlake Int. L. 46, 47; *Brown* v. *U.S.* 8 Cranch, 110)."

When the Trading With the Enemy Act of October 6, 1917, was originally enacted, the report of the Committee on Commerce (65th Cong., 1st sess., rept. 113) contained the following statement:

"* * * Under the old rule warring nations did not respect the property rights of their enemies, but a more enlightened opinion prevails at the present time, and it is now thought to be entirely proper to use the property of enemies without confiscating it."

THE FAR EAST GROUP, INC.,
Washington, D.C., August 9, 1961.

Hon. PETER MACK, Jr.,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN: During the recent hearings on war claims bills (H.R. 7283 and H.R. 7479) before the Subcommittee on Commerce and Finance, concerted effort was made by the representatives of certain groups to persuade the subcommittee to loosen the eligibility provisions of those bills so as to include those persons who became citizens or permanent residents of the United States after the date of the war losses or injury, i.e., at any time up until the date on which the legislation may be enacted. Both the administration's bill (H.R. 7479) and Congressman Mack's bill (H.R. 7283) follow the traditional and accepted rule which requires citizenship on the date of the loss.

In the emotional pleas which were made by these groups for the abandonment of the traditional and accepted rule, in which particular stress was laid on the argument that failure to do so would place the members of these groups—or at least such of them who are American citizens even at this date—in the category of "second-class citizens," amazingly enough not one word was said in support of that large number of American citizens who were such at the date of the loss and whose eligibility is not questioned, but who had been denied similar relief over a period of years by both the Republican and Democratic administrations and by the Congress. In fact, it would appear that this latter group of clearly eligible American citizens have been entirely excluded from the calculations made by the groups whose eligibility is in serious question.

Attached to the statement submitted to the subcommittee by Congressman Machrowicz in support of H.R. 1190 which contains the proposed provision for the loosening of eligibility rule, there appears a compilation which sets forth the classes of persons who would so become eligible, the number in each class who are American citizens at present, and the estimate total of their claims. It shows that there would be 32,500 Poles, of whom 72 percent are citizens at present, with claims totaling $58.65 million; Jugoslavs with 7,950 claims of whom 51.3 percent are citizens at present, with claims totaling $22.94 million; "Others" including Russians with 4,600 claims, of whom 72.3 percent are citizens at present with claims totaling $5.69 million, and certain Filipinos with 4,000 claims, of whom 80 percent are citizens at present, with claims totaling $4.8 million.

None of these persons were citizens at the time of the loss or injury; the total of their claims is shown to be $92.8 million, an amount which almost equals the total amount of money presently available for deposit in the war claims fund, namely, $108 million.

Entirely excluded from the compilation submitted by Congressman Machrowicz as prepared by these groups is that group of American citizens who were and have been citizens since the date of the loss, who number some 12,000 persons with claims totaling some $18 million, whose eligibility is admittedly beyond question.

However, the entitlement of the latter group of citizens has been consistently denied by both Republican and Democratic administrations and by the Congress over a considerable period of years. When the original War Claims Act of 1948 was before the Congress for consideration, and in bills proposed on several occasions since that time, it was urged that all civilian American citizens who were interned by the enemy should come within the compensatory provisions of the War Claims Act. Upon careful consideration it was decided and it has ever since been the view that although all those civilian American citizens who were citizens at the time of internment were equally eligible not all were equally entitled to the relief; only to those to whom a duty was owed was their entitlement. Only those American citizens who were in the Philippines prior to the outbreak of the war and who had been advised by the State Department not

to leave the Philippines—which was then American territory—were judged entitled to the relief. It was to them that the United States owed a duty or obligation. All other American citizens in all other foreign countries prior to the war had been advised by the State Department of the possibility of a war and had been advised to return to the United States. To them no further duty was owed, and to those who stayed in foreign countries and were thereafter interned, there was no entitlement to relief, and from that date to this none has been given them; all of them were American citizens at the time of during their internment, and thus all were equally eligible—but not equally entitled to relief.

It is now urged upon the Congress that the members of the groups who were not citizens at the time of the internment but who have become since that time citizens or permanent residents of the United States should become equally eligible to all benefits under the War Claims Act. But in all of their highly emotional pleas to the subcommittee, no showing was made as to the entitlement of those persons. All of the arguments they have presented have been directed to the point that since this is domestic legislation, Congress has absolute discretion in establishing rules of eligibility, and is not bound by the traditional international rule that only those persons who are citizens at the time of the loss or injury are eligible for relief. No showing has been made, however, as to the entitlement of these persons under any rule of eligibility; no showing has been made that the United States owed these persons any duty at the time of the loss or injury or that it owes them any duty or obligation at this time, particularly as to those who are not citizens even at this time and who owe no allegiance to the United States. The argument that has been most strongly advanced in order to show entitlement has been the repeated assertion that to deny them the relief would place them in the category of "second-class citizens."

When in the past, on the several occasions the Congress and the administrations after due consideration denied the extension of relief to American citizens who had been interned and who were American citizens at the time but who had been given timely warning to leave the threatened lands, no charge was made by these clearly eligible Americans that the denial of relief to them on the ground of lack of entitlement relegated them to the category of "second-class" citizens. It is difficult to restrain the observation that the use of that expression in the hearings just concluded was designed to be inflammatory and divisive, and hardly directed to the point in issue.

All citizens are equally eligible to the benefits to be received by congressional action, but not all are equally entitled; reasonable classifications are too well established in our system of law and government to requirement citation of authority in their support. All citizens do not pay the same amount of taxes; all veterans do not receive exactly the same benefits; all citizens are not under the social security laws, and all those who are do not receive precisely the same benefits. Exclusion from entitlement does not constitute "second-class citizenship."

If the Congress and both administrations have been correct over a period of years in their view that the United States owed no duty to persons who were Americans at the time of their internment because those persons had been given timely warning to return to the United States, it would appear that the United States owed even less duty to persons who were not citizens at the time—not even the duty or the obligation or even the right to give them any warning.

It is beyond argument that in cases of domestic legislation, of which this is one, Congress is not bound by the traditional international rule which limits eligibility to those persons who were nationals at the time of the injury; it can without limitation dispose of the fund to whomsoever it pleases regardless of eligibility or entitlement, and it can even withhold distribution of the fund. It can give the fund away indiscriminately to those entirely without entitlement, as a clear gratuity.

But traditionally, in every distribution of this kind Congress without exception has required a clear showing of entitlement of relief on the part of the claimant, and it has extended relief only to those to whom the United States owed a duty, and it has invariably held that it owed a duty only to those who were its nationals at the time of the loss or injury complained of. Thus, except in cases of outright gratuities, the traditional rule of international law has, in long practice, become the rule in domestic legislation.

It should be kept in mind that the allocation of the war claims fund or any part of it, because of the traditional friendly and generous considerations toward unfortunate peoples that guide American actions in so many instances, to persons to whom the United States was under no clear obligation or duty, is a clear injustice to those citizens who are clearly entitled to claim on the already inadequate fund. Any such generosity by way of a gratuity would, insofar as it diminishes the fund, come out of the pockets of those citizens to whom a duty was owed and who are clearly and without question fully within the rules of eligibility and entitlement. It would, in effect, be the latter who would be granting the gratuity.

Should it be the sense of the Congress that the persons to whom the United States owed no duty and who have shown no clear entitlement to participate in the fund, should be given some measure of relief by the United States by way of a gratuity, the money therefor should be a charge against the United States as a whole and should come out of some fund or appropriation other than the war claims fund; otherwise it is the small group of Americans whose entitlement is clear who will bear the cost of the gratuity.

Should the subcommittee decide to loosen the eligibility provisions of either H.R. 7283 or H.R. 7479 and to find, further, that the proponents thereof are entitled to the requested relief—both of which matters are very apparently in serious dispute and are not in accord with traditional American principles—we should like very much to have your assurance that those American claimants who were American citizens at the time of the loss or injury, and whose eligibility at least is beyond dispute, will receive the same favorable treatment as these new claimants.

Very truly yours,

MYRON WIENER, *Counsel.*

STATEMENT ON THE RETURN OF ASSETS TO GERMAN NATIONALS, BY MERWIN K. HART, PRESIDENT, NATIONAL ECONOMIC COUNCIL, NEW YORK, N.Y.

My name is Merwin K. Hart. I am a resident of New York and president of the National Economic Council, which has members in practically all States of the Union.

Neither the National Economic Council nor I myself have any financial interest whatever in any decision on German assets that may be reached by the Congress. My reason for claiming some familiarity with the subject is that I have visited Germany many times, and have spent considerable periods there, from the closing days of the 19th century down to and including six visits to Germany since World War II.

It seems to me there are several compelling reasons why this withheld German property should be returned, as provided in H.R. 8305 introduced July 24, by Representative Glenn Cunningham of Nebraska:

1. Such a course would be in line with American policy and precedent since the time of the Jay Treaty of 1794.

It is of interest that within 10 years after World War I our Government returned 80 percent of the privately owned German property.

As is well known, too, our Government in 1955 set aside for ultimate return the assets privately owned by Bulgarian, Hungarian, and Rumanian nationals.

But for some reason the German-owned assets now under consideration have been withheld from their German owners for 16 years.

2. The United States, since 1945 has been generous and even extravagant in its outpouring of money and goods to many countries, including such Communist countries as Yugoslavia and Poland.

If we give our taxpayers' money to countries that are potential enemies of the United States, should we not all the more readily give back to German nationals that which by all our practices heretofore clearly belongs to them?

One of the first principles of equity is that a man must be just, before he is generous; and that should apply equally to nations.

3. There are other practical reasons why this property should be returned. West Germany has pursued free private enterprise, on which the American system has always been based, to a greater extent than any other country except the United States.

When I recently visited Germany, an informed German remarked to me, "You want us to be an ally now. It would be much easier to comply if you Americans were willing to treat us as one."

We've been losing the confidence of many thoughtful Germans who felt that somehow the American Government does not look out for its own vital interests—that some alien interest is influencing, if not controlling, our Government's policy. For us to pay back promptly the roughly $400 million of property that lawfully belongs to the German people, would tend to regain the confidence we have lost.

It is conceivable that in some future war, the United States may have private property in other countries that may be seized by those countries or some conquering power.

For us to refuse now to return German assets would put us in a difficult position indeed, when we came to claim the return of American assets in any similar circumstances. Americans have built many factories and other plants abroad.

In other words, for us not to return the German property would be to set a precedent for the future loss of perhaps billions of dollars of American private property.

Two other bills, H.R. 7479 and H.R. 7283, by Congressmen Oren D. Harris and Peter F. Mack, Jr., provide that the German assets in question should be used to compensate a group of private American citizens mainly for bomb damages sustained by their properties abroad during World War II. But it seems clear to us that these two situations should be treated separately. The claims of those who have suffered bomb damage should stand on their own merits.

It is by no means certain that West Germany or any other country in Western Europe will be with us as an effective ally for many years ahead. The effect of our foreign policy has so often been to offend our friends, as we recently did with respect to Portugal, and to make up to countries that almost certainly would be our enemies, like Yugoslavia and Poland, that it is clearly indicated that we should here favor the nationals of Western Germany, whose property we hold and thus cement the friendship that has long existed between the United States and West Germany.

We earnestly hope that H.R. 8305 be reported out of committee and be passed by the Congress.

STATEMENT OF MISS CHRISTEL GUESSEFELDT, ELMHURST, N.Y., ON H.R. 8305, 87TH CONGRESS, AND RELATED BILLS

My name is Miss Christel Guessefeldt. I am an American citizen, born in Hawaii on April 7, 1911. My parents, now deceased, had lived there continuously for almost 50 years. My father saved his money, placed it in trust with a trust company in Honolulu. It consisted solely of U.S. stocks and other securities. In April 1938 my parents took me with them to Europe for a vacation and for my parents' health.

Father and mother could not obtain passage back to Hawaii in 1940 because return by ship was impossible. I remained with them. In February 1948, long after the war's end, the Alien Property Custodian grabbed the trust of my father on the ground that (although he was a friendly alien) by going to Europe he had become an "enemy."

The story of my parents' experiences and the loss of their property is explained in detail in hearings before the Senate Judiciary Subcommittee on Trading With the Enemy Act, 84th Congress (S. 995), July 20–22, 1955, pages 457–474; hearings, House Foreign Affairs Subcommittee, 84th Congress, pages 85–93, on House Joint Resolution 272, etc., July 1 and 11, 1955; hearings, Senate Judiciary Subcommittee, 86th Congress, pages 486–487, on S. 105, etc., June 18 and July 9, 1959.

The APO is still holding the trust income it seized from the trust company (less taxes and other expenses). An examination of the facts as set forth in the above hearings will establish that an outrage was committed against my parents without any equitable or moral justification whatever.

Over 13 years have passed since the seizure which included my childhood toys, books, and clothing. I was forced to buy back those articles from the Office of Alien Property.

I hope that Congress at long last will pass, and soon, a law to restore the balance of the trust income that belongs to me. In considering bills and the history of alien property seizures, I would urge that Senators and Congressmen read carefully the following:

Pages 1558, 1560, daily Congressional Record, February 1, 1956;

Pages 550–573, Congressional Record, January 26, 1948, remarks of Representative Cox of Georgia;

Page 4628, Congressional Record, May 3, 1955, and page 8856, Congressional Record, July 12, 1955, remarks of Senators Russell and Ervin, and Representative Walter, relating to certain members of the judiciary;

Senate Report 1982, 83d Congress.

In the event that action is not had in this session, it is my hope that a special bill can be introduced, considered, and passed in my behalf. I attach a draft and ask that it be included as a part of this statement. It contains the pertinent facts about the vesting of my father's property.

I appreciate very much this opportunity of presenting this statement for the consideration of this committee.

[Joint resolution providing for the return of property to Christel Guessefeldt, a natural-born American citizen and a lifetime resident of the United States]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas on June 26, 1951, the personal property of Christel Guessefeldt, a natural-born American citizen and permanent resident of the United States, was seized by the Office of Alien Property and included contrary to law, under Vesting Order No. 13253, as amended (16 F. Reg. 6702–6703), consisting of clothing, childhood toys, schoolbooks, and similar effects; and

Whereas the Office of Alien Property, by Vesting Orders No. 10616, February 14, 1948 (13 F. Reg. 702, 703) and No. 13253, May 12, 1949 (14 F. Reg. 2887, 2888), seized the property of her father who died in New York November 1, 1952 (a permanent resident of Honolulu since 1896), while on a vacation and trip to Europe for his health in 1938, such property consisting solely of trust funds representing his lifetime savings accumulated by him; and

Whereas Christel Guessefeldt is the sole legatee and beneficiary under the will of her late father and said trust created by him; and

Whereas the U.S. Supreme Court on January 28, 1952 (342 U.S. 308) upheld the right of her father to sue for the return of said trust funds, and reversed the decision of the U.S. District Court, District of Columbia, and the U.S. Court of Appeals, District of Columbia (39 F. Supp. 344; 191 F. 2d 639); and

Whereas the U.S. Supreme Court on the above date in the companion case also upheld the right of an alien who had resided a total of more than 25 years in Japan during the period 1919–45 to sue for the property seized and vested by the Office of Alien Property subsequent to the end of World War II; and

Whereas the District Court of the United States, Northern District of Illinois, Easter Division, in Civil Action No. 47 C. 1830, on June 21, 1953, directed and ordered the return of said vested and seized property to such alien who had so resided in Japan during said period; and was subsequently upheld by the U.S. Court of Appeals, 7th Circuit (212 F. 2d 263) and the contentions of the Alien Property Custodian denounced by that court as "pure sophistry"; and

Whereas the Alien Property Custodian after all evidence had been received in the *Guessefeldt* case, stated to the district court in Chicago in the aforementioned Japanese case as follows: "Whereas Gussefeldt retained his American domicile, we think it must be found on this record that Mrs. Nagane had a Japanese domicile. While Guessefeldt's stay in enemy territory was short, Mrs. Nagane's extended over a lifetime. * * * Whereas, Guessefeldt intended to leave Germany before the United States entered the war and indeed attempted to do so, Mrs. Nagane makes no bones about the fact that the war was no factor in her plans; * * * Guessefeldt was in Germany under physical constraint and Mrs. Nagane was in Japan by free choice," following which statement the Alien Property Custodian immediately thereafter and without disclosing his position in the Japanese case, represented to the district court, District of Columbia, that the facts in the *Guessefeldt* case were exactly the opposite; and

Whereas a district judge, District of Columbia, on April 7, 1953, in a three-sentence memorandum held that Guessefeldt was a resident of Germany within the meaning of the "cases," but did not cite one "case" or authority and has not permitted his ruling to be officially reported in the Federal reporter system thereby precluding reference to it by lawyers and courts as an unpublished opinion; and

Whereas the U.S. Court of Appeals, District of Columbia (the former Alien Property Custodian who seized the Guessefeldt property although a member of the court, did not participate in the Guessefeldt court decisions) on May 13, 1954 in a brief per curiam opinion (213 F. 2d 24) merely announced affirmance, ignoring not only the questions of law presented but the facts set forth in detail in the testimony of the Delegate from Hawaii and counsel before the Special Senate Judiciary Subcommittee (hearings before U.S. Senate Judiciary Subcommittee Investigating the Office of Alien Property, 83d Cong., July 1953, p. 456 et seq.), thereby inviting the denial of certiorari by the Supreme Court on November 8, 1954 (75 S. Ct. 113), and establishing that the intent of Congress under the Trading With the Enemy Act will be followed by the Federal courts in Chicago but not in the District of Columbia; and

Whereas the Alien Property Custodian although present at the aforementioned Senate committee hearing and afforded full opportunity to rebut such testimony, has not done so either in hearings before any committee of the Congress or the courts and has ignored the same; and

Whereas on February 26, 1957 (3 years after its holding that Guessefeldt was a resident of Germany) the Court of Appeals, District of Columbia, declared (*Ochmichen* v. *Brownell*, 243 F. 2d 637) that "Guessefeldt was visiting in Germany and was physically restrained from leaving it," and such opinion was by counsel submitted to the aforesaid Special Senate Judiciary Subcommittee (hearings June 18 and July 1959, p. 486, et seq., 86th Cong., 1st sess); and

Whereas the Federal tax returns of Guessefeldt established his uninterrupted residence to have been in Hawaii since 1896 and such taxes were paid and payable on that basis; and

Whereas said Christel Guessefeldt is lawfully entitled to the return (as the sole issue, beneficiary, and legatee of her late father) of said personal property belonging to her and to said trust funds as aforesaid; and

Whereas she, her father, and her mother were not and never have been enemies of the United States within the meaning of the Trading With the Enemy Act or any other statute of the United States and have always been loyal residents of the United States since 1896; and

Whereas it would be consistent with the laws of the United States and legislation presently pending in the Congress of the United States to authorize and direct the return of property of this American citizen: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

1. The Attorney General is authorized and directed to return to Christel Guessefeldt, a natural-born American citizen, as executrix of the estate of her deceased father, the total income accrued from trust funds representing the lifetime savings of her father, including cash and securities of her mother, and the proceeds of policy No. 5,069,390, New York Life Insurance Co., issued to her father, and vested pursuant to Vesting Orders No. 10616, February 14, 1948, and No. 13253, May 12, 1949, together with any other vested personalty such as clothing, childhood toys, and schoolbooks which may be in the possession of the Office of Alien Property.

2. The delivery and return of such property shall constitute full and complete settlement of all claims by or against the United States arising under such vesting orders or under any provision of the Trading With the Enemy Act, as amended. The Secretary of the Treasury shall take such action as may be necessary to effect the return provided by paragraph 1 above.

3. Upon the return and delivery of the aforesaid property, the distribution and disposition thereof shall not be reviewable by any tribunal, and any provision of law, executive order, rule, or regulation shall not be applicable to such returns or distribution, except any increase or decrease resulting from the administration thereof prior to compliance with this act and after adequate provisions for taxes and conservatory expenses.

AUSTIN, TEX., *July 25, 1961.*

Congressman PETER F. MACK, Jr.,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MACK: I hope to enlist your support in correcting an injustice in the Justice Department. The property described in the attached petition has been confiscated by the Attorney General, and is still being held in violation of all regard for the ownership of private property, and in spite of the fact that all of the surviving heirs and claimants are born American citizens. For many years there have been no aliens involved.

How can the United States castigate Castro for doing the same thing we have done ourselves?

I urge you to support legislation which will return all private property which was confiscated by the Attorney General, particularly that which belongs to American citizens.

Yours truly,

HENNING B. DIETER, Jr.

PETITION

We, the undersigned U.S. citizens, consider the continued holding by the Office of Alien Property of the following described property to be unjust, since there are no alien owners, heirs, or claimants to this property, but only born U.S. citizens.

We believe that the Attorney General of the United States should be authorized and directed to return to Rolf A. Dieter, Annelies Dieter Wiskott, John P. Dieter, and Henning B. Dieter, Jr. (all born U.S. citizens), their respective interests in the trusts created under the will of John P. Dieter, the will of Minna Dieter, the trust agreement dated May 25, 1926, between Henning B. Dieter, Rolf Dieter, Annelies Dieter Wiskott, and Minna Dieter von Goeler, and the State National Bank of El Paso, Tex., as trustee, and the trust agreement dated February 25, 1930, between Minna Dieter von Goeler and Egon von Goeler and the State National Bank of El Paso, Tex., as trustee, which were acquired by the Attorney General under vesting order 10153, dated November 17, 1947.

We urge passage of a bill to provide for relief of the above listed heirs and claimants by returning this property.

HENNING B. DIETER, Jr.

NATIONAL LUTHERAN COUNCIL,
Washington, D.C., July 28, 1961.

HON. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance, House Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR CONGRESSMAN MACK: I understand that your subcommittee is to have public hearings on August 2 and 3 regarding the disposition of vested alien property. I feel this is most desirable, since this issue has been unsettled since the end of the war and changing conditions in international affairs call for a new appraisal of the situation.

The National Lutheran Council passed a resolution in 1958 regarding the principles involved in this decision, which is still germane. I am enclosing the statement with the request that it be included in the record of the current hearings.

Sincerely,

ROBERT E. VAN DEUSEN,
Washington Secretary,
Division of Public Relations.

STATEMENT OF NATIONAL LUTHERAN COUNCIL

The National Lutheran Council is a cooperative agency of six Lutheran bodies having a total membership of over 5 million. These bodies are: The United Lutheran Church in America, the American Lutheran Church, the Augustana Lutheran Church, the Lutheran Free Church, the Finnish Evangelical Lutheran Church, and the American Evangelical Lutheran Church.

The National Lutheran Council holds annual meetings at which official representatives of these church bodies take joint action in the fields of activity which have been assigned to the council. One of the functions of the annual meeting is to pass resolutions after careful study on public issues of concern to the churches, when there is a substantial degree of consensus.

At the annual meeting of the council in Atlantic City in February 7, 1958, the following resolution was adopted:

"Recognizing (1) that the right to private property must be strictly observed, if men are to be and remain free; (2) that private property of citizens should not be appropriated for reparations; (3) that the only course consistent with Christian ethics, international law, and the honor and tradition of the United States is to recognize these principles; and (4) that whereas these principles have been observed in previous settlements with citizens of other countries under the 'Trading With the Enemy Act' during World War II: be it

Resolved, That we urge Congress to adhere to these principles in settlement remaining to be made for property seized under the "Trading With the Enemy Act' during World War II.

The resolution passed by the council was in terms of general principles. In its application to the question of disposition of vested alien property, which is the subject of current hearings, it would indicate approval in principle of the return of such vested property to its former owners.

NEW YORK, N.Y., *July 27, 1961.*

Re vested assets problem.

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance, House Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR SIR: As a resident of the United States since 1922, as an American citizen since 1932, and as a "despoilee" of American nationality, deprived of my property under the wartime amendments of the Trading With the Enemy Act for the better part of 20 years, I have gained unusual experience pertaining to the above captioned subject. My case is before the Federal courts. I do not need new legislation. Such knowledge as I possess has consistently been put to work in order to gain satisfaction on behalf of the many despoilees who are dependent on new legislation. I am mentioning this in order to both emphasize my qualifications born af actual experience, and my unselfish motivations on behalf of all despoilees.

I am convinced that passage of H.R. 7479 and/or H.R. 7283 will work to the detriment of this Nation, and that your and my children will have to live down the stigma which these bills will create if passed into law. The proposition of those in favor of repeal of the 1945–48 amendments of the Trading With the Enemy Act (50 U.S. Code, secs. 32–39) is clear and direct. They hold that it is unethical and improper to take the property of a few hostages in settlement of governmental disputes, and that such taking without prompt and adequate compensation sets a dangerous precedent.

Confiscation of private property must not become official American policy. The excuse voiced by those who would do so is shoddy. The proposition that someone else has agreed to compensate those we despoiled is stilted and invalid unless implemented with enforcement provisions. This we have failed to do. We have denied the right to go to court to those from whom we have taken. We have thrown the victims into no man's land, knowing full well that the three-cornered arrangement cannot and will not work. (See enclosures.)

If possible, and as I am unable to attend the hearings before you due to other press of business, I respectfully request that this letter be incorporated into the record of your impending hearings, with enclosures. I believe my views are worthy of consideration, inasmuch as they come from one actually hurt by the present law.

Outright repeal of the wartime amendments of the Trading With the Enemy Act as proposed by H.R. 8305, the bill introduced by the Honorable Glenn Cunningham, Republican, of Nebraska, would, of course, be best from the standpoint of the despoilee. Short of such repeal, my suggestions in compromise as made to Senator Keating and the German Ambassador (see enclosures) are practical and feasible without undue hardship on either side (Bonn and Washington). Their study is recommended.

Thanking you for your enlightened approach to the problem, and for giving this letter your kind consideration, I am, with the assurance of my highest esteem,

Most respectfully yours,

WERNER CONRAD VON CLEMM.

STATEMENT OF RAOUL E. DESVERNINE, ESQ., ON BEHALF OF THE ASSOCIATION FOR THE RETURN OF JAPANESE SEIZED ASSETS OF TOKYO, JAPAN

[Italic throughout supplied]

My name is Raoul E. Desvernine. My address is 839 17th Street NW., Washington, D.C.

I appear on behalf of my client, the Association for the Return of Japanese Seized Assets of Tokyo, Japan. Through its members, this association accounts for about 85 percent of the aggregate principal amount of all Japanese private claims for the return of or indemnity for assets of Japanese nationals which were seized in the United States by the U.S. Government under the Trading With the Enemy Act, as amended. The claims with which I am concerned here are not claims of the Japanese Government in any manner, shape, or form. They are claims of private persons. Their face value is estimated at approximately $65 million net.

I appear in favor of H.R. 8305, a full return bill; I oppose H.R. 7479, H.R. 7283, and all legislation diverting the vested assets for any purpose other than return or compensation to the original owners.

The question of the return of or indemnity for assets vested by the U.S. Government under the confiscatory White amendment of the Trading With the Enemy Act has been before every session of Congress since the 83d Congress. Numerous hearings have been held. The details of my own arguments in support of full return legislation have been set forth in several of these hearings, and I invite your subcommittee's attention to the record of my testimony at the following hearings:

(1) The Subcommittee on the Trading With the Enemy Act of the Senate Judiciary Committee on July 1 and 2, 1954, 83d Congress, 2d session. (See pp. 64–69 of the hearing record.)

(2) The House Committee on Foreign Affairs, July 1 and 11, 1955, 84th Congress, 1st session. (See pp. 95 and following of the hearing record.)

(3) The Subcommittee on the Trading With the Enemy Act of the Senate Judiciary Committee in April 1956, 84th Congress, 2d session. (See pp. 425–431 of the hearing record.)

(4) Again before said Senate subcommittee on July 11, 1959, 86th Congress, 1st session. (See pp. 471–473 of the hearing record.)

(5) In addition before this Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce on July 23 and 24, 1959, 86th Congress, 1st session.

At the outset of my statement today, I wish to underscore the fact that the White amendment (sec. 39) of the Trading With the Enemy Act is confiscatory of private property and a repudiation by the United States of its historical policy of respecting the inviolability of private property rights. Never in the history of the United States since the beginning of our Government to the White amendment in 1948 has Congress attempted to exercise a power to confiscate foreign-owned private property.

In its report of March 1957, the Senate Judiciary Subcommittee on Trading With the Enemy Act made the following trenchant statement on the untenable character of the U.S. position under the White amendment:

"The primary question which must be answered in dealing with alien property is whether or not the United States is prepared to abandon the principle of inviolability of private property, and in such abandonment to have the Government of the United States become a confiscator along with Communist or imperialistic nations. Abandonment, if there is to be an abandonment of the principle of the sanctity of private property, should be openly undertaken and with a full understanding of its implications. It should be clearly recognized that such abandonment violates principles and traditions of the United States which heretofore have been considered basic. This violation, moreover, cannot be avoided by the ingenious use of language which gives lipservice to basic principles, but which in fact deny to the private property owner that which

he owns and which does give him prompt and adequate compensation for the property so taken."

It is submitted that this declaration of the Senate subcommittee accurately and forcefully states the issue presented to this committee and takes the only position which can be taken consistent with American historic practice, with international law and morality.

During a debate in 1923 in the House of Representatives on a bill to amend the Trading With the Enemy Act, Mr. Rayburn, of Texas said:

"Mr. RAYBURN. * * * Following every precedent of international law, following every Secretary of State of the United States from Jefferson down to Knox and Lansing, following every decision of the Supreme Court of the United States from its beginning to now, I know that in honor there is only one thing for this Congress to do, and that is to do the clean thing, the thing that will be understood the world over, and that is to return all of this property, and return it at an early date.

"* * * I say this, that no civilized nation in this world today will countenance for a moment the doctrine that private property should be taken for the satisfaction of a public obligation. * * * *Every member of the committee [on Interstate and Foreign Commerce] in the hearings and in the consideration of this bill protested loudly that he did not intend that any of this property should ever be confiscated.* But they use the term 'security,' they use the term 'pledge.' * * * I say that when any man here says that he is against confiscation in one breath and in the next breath says that he is for holding private property as security for the satisfaction of public obligations, he is for confiscation and it can mean nothing else.

"Every Secretary of State * * * from Jefferson to Lansing has announced the doctrine that no country should confiscate private property of enemy nationals."

The then Secretary of State Dulles testified before the Senate subcommittee on S. 3423, on July 2, 1954 that:

"The policy adopted after World War II of completely eliminating ownership of enemy private property was a departure from historic American policy after other wars."

He further stated that he would like to see the United States return to its historic position and that "*there is no objection from any foreign policy viewpoint to the return, as a matter of grace, of vested German property and of Japanese property.*" Secretary Dulles continued to say:

"* * * at the end of the First World War * * * the United States consistently, with its policy of recognizing the sanctity in time of war, did make restitution, by and large, of the seized property.

"I believe that in doing so we enhanced our own prestige in the world and that it was good business from the standpoint of the United States to do it. * * * I believe that it is in the interest of the United States to have a policy and stick to a policy which means that if foreigners invest their property in this country, have interest in this country, have bank accounts here, insurance policies here, annuities here, things of that sort, they can be sure that is a safe place in which to have them.

"In the long run, I believe it is in the interest of the United States to establish that kind of reputation, which we have had over many years. And I believe we get indirect benefits from such a policy which need to be weighed in the scales as against the immediate military cost to carry out such a policy."

Senator Dirksen then put the following question to Secretary Dulles. He asked the Secretary:

"Do you see any connection between what we did in the revised Trading With the Enemy Act in completely changing our concept from custodianship to confiscation with what I esteem to be the growth of the expropriation idea in the world, as, for instance, the refineries in Iran, certain actions that took place in Latin America?"

Secretary Dulles' reply was as follows:

"I see some relationship between it.

"I recognize that there is force in what you say, to the effect that our own position to protect American interests abroad is strengthened if we protect foreign interests that are here.

"I would think that in an era when we expect the American interests abroad, American capital investments abroad, that it is wise for us to adhere ourselves strenuously to the highest standards of conduct in relation to those matters. That puts us in a better position to call upon others to apply the same standards."

The views expressed by the Secretary of State in this testimony were reinforced on June 6, 1955, when he transmitted to Congress proposals for the return of certain German and Japanese vested assets (Kilgore bill, S. 2227). According to the testimony of then Deputy Under Secretary of State Robert Murphy, these proposals "were approved by the Cabinet and have the endorsement of all the Government agencies concerned (hearings, 1955–56, p. 23).

The United States cannot afford to leave itself open to the accusation that it seeks to profit by confiscation under its domestic law, while at the same time denouncing the policy of confiscation if practiced by any other nation. The same idea was emphatically stated as follows by the Senate Subcommittee on Trading With the Enemy Act in its report to the 84th Congress:

"Confiscation must not be the practice of a nation which encourages morality in others. Confiscation is the practice of a people who deny that morality exists."

Consistency, as well as moral rectitude, requires that if the U.S. Government disavows confiscation of private property, as a matter of Government policy, for itself or any other government, the U.S. Government must restore all private property confiscated by it under the White amendment. Our domestic law, the Trading With the Enemy Act, must be made to conform with our professed principles and policy—certainly with the international morality we preach to others.

Strange as it might seem, the United States has restored the seized property of nationals from three countries behind the Iron Curtain; namely, Bulgaria, Hungary, and Rumania. It has also restored the seized property of Italian nationals. But it has not restored the seized property of nationals from two of our most dependable allies in today's fight against Communist aggression. I refer to the nations of Japan and Germany.

Apropos to this anomaly of favoring the nationals of one's enemy and discriminating against the nationals of one's friends, the Senate Subcommittee on Trading With the Enemy Act in its report of April 27, 1959, commented on then Under Secretary of State (*now Secretary of the Treasury*) Dillon's statement that the expansion and protection of American private investments abroad was of the "utmost concern to the Department of State in the conduct of our foreign relations" especially with a "hostile Communist bloc actively pressing a massive offensive against the Western sysetm of free enterprise." The report said:

"The subcommittee believes the security of foreign investments must be based upon a governmental policy which practices the principles of maintaining the sanctity of private property and which refrains from confiscation of private property of foreign nationals—even in war—time. Only by coordinating our foreign policy and by being consistent in our pronouncements and actions can we present an example of the merits of the free enterprise system to the entire world. It is not consistent policy or action to return some private properties to some of our former enemies, namely those in Italy, Bulgaria, Rumania, and Hungary, and deny such returns to perhaps our most dependable present-day allies—Germany and Japan.

"We have exhibited friendship with the Governments of Germany and Japan, while at the same time denying certain nationals of those Governments the use of their property seized by this country as a wartime precautionary measure. The subcommittee believes such inconsistencies are detrimental and without foundation in moral or international law."

By way of attempting to justify the harsh discrimination of the U.S. Government against nationals of Japan and Germany, it has been argued that Japan in her peace treaty with the United States renounced the claims for vested assets against the United States and that similarly, Germany in her Convention on the Settlement of Matters Arising out of the War and Occupation, had agreed to assume the claims of her citizens and not assess the same against the United States. It has also been contended that under the provisions of the Treaty of Peace With Japan and under the provisions of the Paris reparations agreement of 1946, the United States was permitted to hold all seized assets in lieu of reparations and to dispose of them as she saw fit.

Consequently, it is argued that the U.S. Government need not feel legally obliged to make restitution by amending the Trading With the Enemy Act as it can justify its retention of seized properties of Japanese and German nationals under its agreements with the Governments of Japan and Germany.

Prof. Philip C. Jessup, in his opinion of June 19, 1957 (hereinbefore referred to), on the question as to whether the vesting of properties of a national of a former belligerent country loses its confiscatory character in view of the Con-

vention on the Settlement of Matters Arising out of the War and Occupation and the reparations Treaty of Versailles, in the case of German assets, authoritatively rejects the above argument in justification of retention. He says:

"My answer to both questions is in the negative: that is to say that the confiscatory character of the measures against German property taken by the former belligerent countries is not eliminated or diminished by the treaty provisions in question.

"As will be shown in this opinion, the confiscatory character of a national action which deprives individuals of their property is not removed by requiring the state of which those individuals are nationals to assume an obligation to compensate for the loss occasioned by the foreign expropriation of their property. This conclusion was clear to those who commented upon the comparable provisions in article 279(i) of the Treaty of Versailles at the end of World War I and must similarly be reached with regard to the provisions of article 5 of the German Treaty.

"It will be shown that neither the provisions of article 3 of the German Treaty *nor the terms of any other international* Agreements raise a bar to return to its German or *Japanese* owners the property taken into custody by the United States during the war."

I assume the above argument offered in justification of retention is the basis upon which H.R. 7479 and H.R. 7283, diverting the vested assets to the payment of American war claims, is predicated. The obligation to pay war claims is a public obligation and, repeating Congressman Rayburn's statement (see p. 4 of this memorandum):

"* * * *no civilized nation in this world today will countenance for a moment the doctrine that private property should be taken for the satisfaction of a public obligation.*"

The principles in the above quotation from Professor Jessup's opinion are even more pertinent to the Japanese Treaty of Peace than to the German convention and, *in fact, Professor Jessup expressly included Japanese vested assets in the coverage of his opinion.*

Speaking from the point of view of Japanese nationals, I stress that this theory of refusing to return seized property is based on the wholly unwarranted assumption that the Japanese Government could renounce or waive the right of its nationals to private properties in the United States. The fact of the matter is that the Japanese Government never attempted to or never asserted any right or authority whatever to bind Japanese private claimants with respect to private assets seized in the United States by our Government. The Japanese Government has disavowed any such right or authority and has so officially advised the State Department in an aide memoire. See pages 430 and 431 of the record of the hearings before the Subcommittee on Return of Vested Property of the Senate Judiciary Committee, 84th Congress, 1st session.

In this aide memoire, the Japanese Embassy reminded the State Department that the Japanese Government had renounced its right to make claims on behalf of Japanese nationals against the United States for seizure of their properties. *The Japanese Government took the position that any negotiations respecting return or indemnity for seized private assets were matters for the private owners only.* Consequently, the Japanese Government did not want to be misunderstood as "breaching" its treaty by being a party to conversations respecting these private claims. Nevertheless, the State Department requested that negotiations continue for a return of seized assets. In taking this stand the State Department indicated that the U.S. Government had under consideration the restoration of the principle of inviolability of private property in its treatment of the seized assets of Japanese nationals.

"The plain conclusion is obvious that to the extent S. 2227 does not return *all* seized property, it approves confiscation of property by the Government of the United States."

The former Deputy Under Secretary of State, Robert D. Murphy, in testifying before the same Senate subcommittee about an administration proposal to return seized property up to $10,000 and to pay certain war damage claims, was asked if the partial payment program involves confiscation of private property. He answered that naturally it is based on a confiscation of private property.

So much for the partial payment type of legislation. It is legislation which would place political expedience above political principle.

The same characterization may also be made of legislation diverting the vested assets to the payment of war claims of Americans (H.R. 7479 and H.R. 7283, now before this committee); *in fact, against any proposal to use the vested assets for any purpose except restitution to the owners.* It is Robin Hood justice to

utilize the proceeds realized from seized assets for the payment of American war claims or for educational and charitable purposes. There is no other way to honor the rights of owners of seized assets than to make full return of their property or to pay full indemnity. Anything less sacrifices principle.

Here is a quotation applicable to the diversion of vested assets to the payment of reparations. Reparations are identical with war claims as far as the principle involved is concerned. *This quotation is, therefore, applicable to H.R. 7479 and H.R. 7283.*

"Fifth: The stigma of confiscation cannot be avoided by describing the assets as 'reparations' or by declaring that they have been taken 'in lieu of reparations.' Nor do we mitigate our offense by telling the former owners to seek compensation from their own governments instead of from us. These are verbalisms and subterfuges. It is we who have expropriated the property; in law and in justice the obligation to return the property or to compensate the owners remains with us." (See Jessup, "Enemy Property," 49 American Journal of International Law 57 (January 1955) which cites authoritatively the "Statement in Reply to the Report of the Special Committee to Study the Dirksen Bill," Aug. 16, 1955. American Bar Association.)

Philip C. Jessup, in his above referenced Opinion on German Vested Assets (June 19, 1957), page 14, says:

"The War Claims Act of 1948 which added section 39 to the Trading With the Enemy Act (62 Stat. 1246 (1948), 50 U.S.C. App. S. 39 (1952 ed.)) and provided that there should be no return of German or Japanese property and that no compensation shall be paid for such property, is clearly in derogation of international law and any attempt to justify it must be strictly examined."

In the face of this authoritative condemnation how can Congress now even consider H.R. 7479 and H.R. 7283 again attempting to tie in the Trading With the Enemy Act with war claims?

Full restitution of or fair compensation for vested (confiscated) properties will *alone* satisfy the requirements of international law and morality and then *only* if that restitution or compensation is made *to the individual whose property was taken.*

Finally, in his release of July 31, 1957, President Eisenhower referred to his conversations with Chancellor Adenauer with respect to the settlement of private claims for seized foreign assets and gave high hopes for a satisfactory settlement. I quote from the release:

"Consequently, in order to reflect the historic American policy of maintaining the sanctity of private property even in wartime, the administration intends, as a matter of priority, to submit to the Congress, early in the coming session, a supplementary plan.

"It is contemplated that this plan would provide for the payment in full of all legitimate war claims of Americans against Germany and would permit as an act of grace, an equitable monetary return to former owners of vested assets.

"It is hoped that it will also be possible to work out a final solution of the Japanese vested assets for presentation to the next session of Congress."

It is submitted that the historic American policy of maintaining the sanctity of private property, paid tribute here by the President, can only mean full return of the seized property or indemnity therefor, and that the proposals such as H.R. 7479 and H.R. 7283 are inconsistent with the President's statement of principle and contrary to the policy statement of the late Secretary Dulles, quoted earlier.

The ultimate enactment into law of H.R. 8305 or similar legislation making *full restitution or full compensation*, would alone bring our statutory law in conformity with our professed standards of justice and morality and with the established principles of international law and would restore our historic pattern of national conduct and international policy in respect of the sanctity of private property.

WASHINGTON, D.C., *August 22, 1961.*

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. MACK: I beg your leave to submit this statement for the record in connection with your subcommittee's recent hearings on legislation dealing with the Trading With the Enemy Act and the War Claims Act.

Essentially this statement is supplemental to the one which I already have presented to you and your subcommittee within the past month on behalf of the Association for the Return of Japanese Seized Assets of Tokyo, Japan. It is specifically made on behalf of Kyu Mitsui Bussan Kabushiki Kaisha (in liquidation) and other members of the foregoing association whose seized assets are within the embrace of the Philippine Property Act of 1946.

The pending legislation for the return of vested assets now being considered by your subcommittee; namely, H.R. 8305, contains a provision which is inconsistent with its underlying principle and which therefore, should be eliminated. This provision, section 39(a)(4), would exclude from the coverage of full return otherwise provided in the legislation "property which is subject to transfer to the Republic of the Philippines under the Philippine Property Act of 1949, as amended."

The point here is quite clear. From the view of making restitution to people whose property was seized, it makes no difference in principle what happened to the property after it was seized. In this regard, there is nothing fundamental in the distinction between persons whose property the United States seized and retained and persons whose property the United States seized and transferred to the Philippine Government. The obligation under our constitutional concept of the inviolability of private property is not diminished one iota by any act for the benefit of a third party. The Government's obligation to make restitution to former owners remains fixed and is wholly unaffected by what the Government did with the seized property without the former owners' consent.

Since the foundation for full return legislation is to honor private property rights pursuant to our Constitution, the exclusion specified at section 39(a)(4) of H.R. 8305 should be eliminated as it contradicts the basic principle of the legislation and perpetuates a grave transgression on private property rights.

I am forwarding copies of this letter to the members of your subcommittee and to Representative Glenn Cunningham, who introduced H.R. 8305.

Respectfully,

RAOUL E. DESVERNINE.

WASHINGTON, D.C., *September 21, 1961.*

Re H.R. 8305.

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. MACK: This follows up my letter to you of August 22, 1961. In that letter, you will recall, I recommended that the subject bill be amended so as to eliminate the exclusion of certain property subject to transfer to the Republic of the Philippines from the full return coverage otherwise provided in the legislation.

For your information, Representative Glenn Cunningham, who introduced the bill, has stated to me in a letter of August 29, 1961, that he knows of no reason why he would not support having this legislation so amended.

I am forwarding copies of this letter to the members of your subcommittee and to Representative Cunningham.

Respectfully,

RAOUL E. DESVERNINE.

SOCIETY FOR THE PREVENTION OF WORLD WAR III, INC.,
New York, N.Y., August 4, 1961.

Hon. PETER F. MACK, Jr.,
Chairman, Subcommittee on Commerce and Finance, House Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR CONGRESSMAN MACK: For years the society has been on record opposing the return of former enemy assets vested by the United States during World War II. We have also stated that all such assets should be sold to bona fide U.S. interests and the proceeds from such sales be allocated to Americans who have been victimized by the aggressions of the Rome-Berlin-Tokyo Axis.

The society's position is not only consonant with the original policies of our Government but is based on the moral principle that those who commit aggression must be penalized and not rewarded. Consequently, we hope that your

committee will reject all proposals that would in one way or another return the former enemy assets. By the same token, we urge that your committee support all proposals to dispose of these assets according to the procedure which the society outlined above.

Very sincerly yours,

ALBERT SIMARD,
Secretary.
ISIDORE LIPSCHUTZ,
Treasurer.

(Thereupon, at 12:20 p.m., the subcommittee was adjourned.)

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