

AMENDING SECTION 32 (A) (2) OF THE TRADING WITH
THE ENEMY ACT

SEPTEMBER 15, 1950.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BECKWORTH, from the Committee on Interstate and Foreign
Commerce, submitted the following

REPORT

[To accompany S. 1292]

The Committee on Interstate and Foreign Commerce, to whom was
referred the bill (S. 1292) to amend section 32 (a) (2) of the Trading
With the Enemy Act, having considered the same, report favorably
thereon with amendments and recommend that the bill, as amended,
do pass.

The amendments are as follows:

Page 2, line 5, strike out the period and insert in lieu thereof the
following:

: *And provided further*, That the aggregate value of returns made pursuant to the
foregoing proviso shall not exceed \$5,000,000; and in making returns under such
proviso the Alien Property Custodian shall to the extent practicable make such
returns in the order in which notices of claims therefor were received and may re-
turn any property or interest if the value thereof, taken together with the aggre-
gate value of property and interests already returned pursuant to such proviso,
does not exceed \$5,000,000.

Page 2, after line 5, insert the following section:

SEC. 2. There shall be included in the report made to Congress pursuant to
section 6 of the Trading With the Enemy Act, as amended, a statement of (1)
the names and nationalities of persons who have filed notice of claim for the
return of any property or interest under section 1 of this Act, the date of the filing
of such notice of claim, and the estimated value of the property or interest, and
(2) the names and nationalities of persons to whom returns have been made of
any property or interest under section 1 of this Act and the value of such property
or interest.

This proposed legislation has the approval of the Department of
Justice as indicated in letter of August 29, 1950, the Department of
State as indicated in letters of August 10 and 21, 1950, and the War
Claims Commission as indicated in letters of August 9 and 22, 1950.
These communications are printed below in this report.

The purpose of the bill, as amended, is to clarify the authority of the Office of Alien Property to return vested property under the general provisions of section 32, to a person who possessed American citizenship at all times since December 7, 1941, despite concurrent possession of enemy citizenship, and despite residence in enemy territory. A further purpose of the bill is to authorize return of vested property to those American women who, because they married foreign citizens prior to the enactment of the Cable Act (42 Stat. 1021), lost their citizenship as a result, provided such women have reacquired American citizenship prior to the date of enactment of this bill.

An amendment adopted by your committee to section 1 of the bill would limit the aggregate value of returns of property and interests pursuant to the provisions of section 1 of this bill to \$5,000,000. The amendment would provide that, to the extent practicable, the Alien Property Custodian shall make such returns in the order in which notices of claim therefor were received.

The amendment would further authorize the Alien Property Custodian to make a return under the provisions of section 1 if the value of the property or interest returned, taken together with the aggregate value of property and interests already returned pursuant to section 1, does not exceed \$5,000,000.

A further amendment adds a second section to the bill which requires that the annual reports of the Alien Property Custodian include a statement of (1) the names and nationalities of persons who have filed notice of claim for the return of any property or interest under section 1 of this bill, the date of filing of such notice of claim, and the estimated value of the property or interest, and (2) the names and nationalities of persons to whom returns have been made of any property or interest under section 1 of this bill and the value of such property or interest.

HISTORY OF LEGISLATION

Section 32 of the Trading With the Enemy Act permits return of vested property to citizens of the United States even if they were voluntarily resident after December 7, 1941, within the territory of an enemy nation. However, it prohibits return to an enemy citizen or subject who resided in enemy territory during the war.

The act does not explicitly deal with the problem of persons who were present in enemy territory during hostilities and who at the same time possessed United States and enemy citizenship. These are the so-called dual nationals cases.

In an administrative decision entitled "In the Matter of Emily Fritze" (February 6, 1948), the Director of the Office of Alien Property ruled that the cases of American dual nationals were governed by that provision of section 32 which prohibits returns to citizens or subjects of enemy countries who resided in enemy territory during hostilities. The effect of this decision is to disregard the American citizenship of dual nationals and to lay stress on their concurrent alien citizenship.

Under this view of section 32 of the Trading With the Enemy Act, there appears to be no permissive authority to return to American dual national citizens the vested property formerly owned by them. No court review of an administrative determination on this question is possible inasmuch as returns pursuant to section 32 of the Trading

With the Enemy Act are within the unreviewable discretion of the Office of Alien Property.

Since the administrative ruling in the aforementioned Fritze case, the policy of vesting the property of American dual nationals, except in cases where the Director has proof of actual collaboration with the enemy, has been discontinued by the Office of Alien Property. This results in patent discrimination against those American dual nationals whose property happened to have been vested prior to this change of policy.

It is the purpose of the proposed legislation to eliminate this discrimination by making clear the authority of the Director of the Office of Alien Property to return property vested in these dual national cases. The general requirements of section 32 relating to returns of vested property will be applicable to returns pursuant to the proposed legislation.

The committee amendment limiting such returns to \$5,000,000 is based on estimates furnished by the Department of Justice indicating that such returns will not exceed that sum. Your committee has imposed this limitation to safeguard the solvency of the War Claims Fund out of which, pursuant to the provisions of the War Claims Act of 1948, claims of American prisoners of war and American civilian internees are to be paid.

DEPARTMENT OF JUSTICE,
Washington, D. C., August 29, 1950.

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

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (S. 1292) to amend section 32 (a) (2) of the Trading With the Enemy Act, which has passed the Senate and is now pending before your committee.

The bill would amend section 32 (a) (2) (D) of the Trading With the Enemy Act (50 U. S. C. App. 32 (a) (2) (D)), so as to permit return of vested property to an individual "who at all times since December 7, 1941, was a citizen of the United States, or to an individual 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 proviso, if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage."

At present, section 32 (a) (2) (C) of the Trading With the Enemy Act permits the return of vested property to citizens of the United States even if they were voluntarily resident after December 7, 1941, within the territory of an enemy nation. Return to an enemy citizen or subject who resided in enemy territory during the war is prohibited under section 32 (a) (2) (D). The act is not clear, however, with respect to making return to an individual who was present in enemy territory during hostilities and who was an American citizen, but was at the same time an enemy citizen. These are the so-called dual nationals who are, under the nationality laws of the United States, recognized as United States citizens.

This Department has given serious consideration to this problem, but decided that the permissive authority to return vested property to United States citizens was overridden by the strict bar against return to enemy citizens. No controlling judicial decisions have touched on this question.

Enactment of this bill would permit return of vested property to the so-called dual nationals. In addition, American women who, because of marriage to a foreign citizen prior to 1922, lost their citizenship, would also be eligible for return of their vested property, provided that such women have taken the necessary steps to reacquire United States citizenship prior to the date of enactment.

The present policy of the Department of Justice is to except from vesting all property of American citizens, regardless of what other citizenship they may

possess, except for those who may reasonably be considered to have supported the enemy. The Department is of the opinion that return of property should be governed by the same policy, so that property vested from any United States citizen may be returned where there is no evidence of active collaboration with the enemy.

Should this measure become law, it is estimated that not more than \$4,500,000 would be returned. Returns in this amount would not, on the basis of existing legislation, endanger the ability of the Department to meet the needs of the war claims fund.

In view of the foregoing considerations, this Department is in favor of the enactment of the bill.

The Director of the Bureau of the Budget has advised that the enactment of this legislation would be in accord with the program of the President.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

DEPARTMENT OF STATE,
Washington, D. C., August 10, 1950.

HON. ROBERT CROSSER,
*Chairman, Committee on Interstate
and Foreign Commerce,
House of Representatives.*

MY DEAR MR. CROSSER: Reference is made to your letter of July 31, 1950, requesting the comments of this Department on S. 1292, to amend section 32 (a) (2) of the Trading With the Enemy Act.

The act would permit the return of vested property to an individual who at all times since December 7, 1941, was a citizen of the United States. It would also permit the return of property to an individual who lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country if such individual reacquired United States citizenship prior to the date of enactment of the proposed legislation, and provided the individual would have been a citizen at all times since December 7, 1941, but for such marriage.

The Department is sympathetic to the objectives of S. 1292. The act appears to have eliminated reasons for the Department's objections, as set forth in its report of February 11, 1948, to propose legislation of a similar nature. A copy of the report of February 11, 1948 is enclosed for convenient reference.

The Department favors the enactment of S. 1292.

In order to comply with the request from your committee that the Department's comments be submitted prior to hearings on this bill on August 15, 1950, this report has not been cleared with the Bureau of the Budget, to which copies are being sent.

Sincerely yours,

JACK K. McFALL, *Assistant Secretary*
(For the Secretary of State).

DEPARTMENT OF STATE,
Washington, D. C., February 11, 1948.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

MY DEAR MR. WOLVERTON: Further reference is made to your letters of January 13 and 30, 1948, requesting the comments of this Department with respect to three bills, H. R. 4903, H. R. 5188, and H. R. 5200, to amend section 32 of the Trading With the Enemy Act, which have recently been introduced and referred to your committee.

All three bills are apparently designed to permit the return of vested property to certain American citizens who resided in enemy territory during the war and who may also have been deemed to be citizens of enemy countries.

It is understandable that the Congress should be interested, as is this Department, in providing relief to American citizens who did not espouse the enemy cause, but because of their technical status have hitherto been unable to secure a return of property which was vested from them. In attempting to distinguish those persons from other persons who may also have been American citizens but whose conduct would not merit such favorable consideration, the Congress will,

of course, consider with care the precise limits of any legislative action which may be taken.

The three bills under reference represent attempts to draw such distinctions. H. R. 5200, which permits a person who is presently an American citizen to receive a return, may result in benefiting persons who may have renounced their American citizenship prior to or during the war, or at least did not exercise diligence in seeking to retain such citizenship. H. R. 5188 appears to be subject to this same defect, as well as being somewhat uncertain in its scope. H. R. 4901, which benefits primarily American women who married enemy citizens, or subjects prior to 1922, appears to be subject to the defect adverted to in the other bills, as well as working a possible discrimination against American women who may have married enemy citizens between 1922 and December 7, 1941.

This Department, consistent with the comments made hereinabove, is of the opinion that a proviso which may meet the objectives aimed at, while at the same time not benefiting those who appear to have no special claim, may read as follows: "That section 32 of the Trading with the Enemy Act of 1917, as amended, is hereby further amended by the insertion at the end of paragraph (a) (2) (C) and (D) thereof of the following: 'and to a citizen of the United States at the time of the effective date of this Act, who was also a citizen of the United States on December 7, 1941, but who, solely by reason of marriage to a citizen or subject of Germany, Japan, Rumania, Hungary, or Bulgaria, is or may be also a citizen or subject of such foreign nation'."

Because of the urgency of the matter, this letter has not been cleared with the Bureau of the Budget, to which a copy is being sent.

Sincerely yours,

CHARLES E. BOHLEN, *Counselor*
(For the Secretary of State).

DEPARTMENT OF STATE,
Washington, D. C., August 21, 1950.

HON. ROBERT CROSSER,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

MY DEAR MR. CROSSER: Further reference is made to your letter of July 31, 1950, and to the Department's reply of August 10, 1950, relative to S. 1292, to amend section 32 (a) (2) of the Trading With the Enemy Act.

The Department has now been informed by the Bureau of the Budget that there is no objection to the submission of our report, since enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

JACK K. MCFALL, *Assistant Secretary*
(For the Secretary of State).

WAR CLAIMS COMMISSION,
Washington, D. C., August 9, 1950.

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

MY DEAR MR. CROSSER: Reference is made to your letter of July 31, 1950, requesting a report on S. 1292, Eighty-first Congress, an act to amend section 32 (a) (2) of the Trading With the Enemy Act.

The purpose of this legislation is to permit the return of property vested pursuant to the provisions of the Trading With the Enemy Act of 1917 (40 Stat. 411), as amended, to individuals who, at all times after December 7, 1941, were citizens of the United States. Return would also be permitted where an individual, having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired United States citizenship prior to the date of the enactment of this measure. Such individuals who lost citizenship through marriage are eligible for return of property if they would have been citizens of the United States, after December 7, 1941, but for the marriage to a foreign citizen or subject.

The War Claims Act of 1948 (Public Law 896, 80th Cong., July 3, 1948; 62 Stat. 1240; 50 U. S. C. App. 2001-2013), as amended, created the War Claims Commission and provided, in part, for the recognition and payment by the Commission of certain war claims arising out of World War II. These claims include: Claims of certain civilian American citizens interned by or in hiding

from the Japanese in specified Pacific areas; claims of members of the Armed Forces of the United States who, as prisoners of war, were not furnished by the enemy with the quality or quantity of food prescribed by the Geneva Convention of 1929; and claims of certain survivors of the persons previously described. In addition, the War Claims Act also recognizes the claims of religious organizations operating in the Philippines, and affiliated with religious organizations in the United States, for reimbursement of the fair value of the food, medical supplies, shelter, and other relief given to our troops and civilian American citizens in the Philippines during World War II.

By the operation of sections 12 and 13 of the War Claims Act of 1948, as amended, provision is made for the covering into the Treasury of funds representing the liquidation of German and Japanese assets vested by the Office of Alien Property, and the creation on the books of the Treasury of the war claims fund to consist of such moneys as are covered in by the Office of Alien Property. The claims given recognition by the act are to be paid from the war claims fund.

In view of the above, the Commission has been much concerned about the possible cost of measures of the nature of this proposed legislation and the fact that its enactment would deplete the war claims fund. The Commission has felt an obligation to object to proposed legislation which, if enacted, would deplete the war claims fund.

The War Claims Commission has been advised informally, however, that it is estimated that the total cost of this legislation will not exceed \$5,000,000. If this measure is amended to so limit the cost, the Commission feels that it can withdraw its objection and that the measure should be considered on its merits. The Commission is not in a position to comment on the merits of the legislation apart from its effect on the war claims fund.

A supplemental report on H. R. 1848, Eighty-first Congress, is being furnished concurrently with this report.

Due to the urgent request of the committee for a report on this measure, there has not been sufficient time in which to ascertain from the Bureau of the Budget the relationship of the proposed legislation to the program of the President. A supplemental report will be furnished later in this connection.

Sincerely yours,

DANIEL F. CLEARY,
Chairman, War Claims Commission.

WAR CLAIMS COMMISSION,
Washington, D. C., August 22, 1950.

HON. ROBERT CROSSER,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CROSSER: Reference is made to the report of the War Claims Commission of August 9, 1950, concerning S. 1292, Eighty-first Congress, an act to amend section 32 (a) (2) of the Trading With the Enemy Act.

The War Claims Commission was advised by the Bureau of the Budget on August 17, 1950, that the proposed legislation would be in accord with the program of the President.

Sincerely yours,

DANIEL F. CLEARY,
Chairman, War Claims Commission.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TRADING WITH THE ENEMY ACT, AS AMENDED

* * * * *

SEC. 32. (a) The President, or such officer or agency as he may designate, may return any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior

to December 18, 1941), or the net proceeds thereof, whenever the President or such officer or agency shall determine—

(1) that the person who has filed a notice of claim for return, in such form as the President or such officer or agency may prescribe, was the owner of such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian, or is the legal representative (whether or not appointed by a court in the United States), or successor in interest by inheritance, devise, bequest, or operation of law, of such owner; and

(2) that such owner, and legal representative or successor in interest, if any, are not—

(A) the Government of Germany, Japan, Bulgaria, Hungary, or Rumania; or

(B) a corporation or association organized under the laws of such nation: *Provided*, That any property or interest or proceeds which, but for the provisions of this subdivision (B), might be returned under this section to any such corporation or association, may be returned to the owner or owners of all the stock of such corporation or of all the proprietary and beneficial interest in such association, if their ownership of such stock or proprietary and beneficial interest existed immediately prior to vesting in or transfer to the Alien Property Custodian and continuously thereafter to the date of such return (without regard to purported divestments or limitations of such ownership by any government referred to in subdivision (A) hereof) and if such ownership was by one or more citizens of the United States or by one or more corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia: *Provided further*, That such owner or owners shall succeed to those obligations limited in aggregate amount to the value of such property or interest or proceeds, which are lawfully assertible against the corporation or association by persons not ineligible to receive a return under this section; or

(C) an individual voluntarily resident at any time since December 7, 1941, within the territory of such nation, other than a citizen of the United States or a diplomatic or consular officer of Italy or of any nation with which the United States has not at any time since December 7, 1941, been at war: *Provided*, That an individual who, while in the territory of a nation with which the United States has at any time since December 7, 1941, been at war, was deprived of life or substantially deprived of liberty pursuant to any law, decree, or regulation of such nation discriminating against political, racial, or religious groups, shall not be deemed to have voluntarily resided in such territory; or

(D) an individual who was at any time after December 7, 1941, a citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania, and who on or after December 7, 1941, and prior to the date of the enactment of this section, was present (other than in the service of the United States) in the territory of such nation or in any territory occupied by the military or naval forces thereof or engaged in any business in any such territory: *Provided*, That notwithstanding the provisions of this subdivision (D) return may be made to an individual who, as a consequence of any law, decree, or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious groups, has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such [nation;] nation: *And provided further*, That, notwithstanding the provisions of subdivision (C) hereof and of this subdivision (D), return may be made to an individual who at all times since December 7, 1941, was a citizen of the United States, or to an individual 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 proviso if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage; or

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