

This provision of the executive agreement violates the constitutional rights of the American citizens. The Department of State with its letter of September 14, 1966, signed by Assistant Secretary for Congressional Relations, Douglas MacArthur II, could not disprove these facts. This violation is not contained in the fact that the U.S. Government settled the claim for less than the full amount, but that they accepted such a settlement with the official declaration that it constitutes a "full and final settlement and discharge of the claims of nationals of the United States of America."

The statement in the letter of the Department of State that claimants "would not subsequently be barred from additional payments in the event that funds were obtained directly from the Governments of Bulgaria or Rumania" is contradicted in the same letter of the Honorable Douglas MacArthur II, when he under (a) of his letter expressly states:

The settlement agreements were in full payment of all claims of nationals of the United States against Bulgaria and Rumania which arose prior to the dates of the agreements.

That this contention fully stands can be seen also from the letter which the Bulgarian legation on September 3, 1965, wrote to the Bulgarian claimant, Mr. Leo Rintel, which letter has been submitted by me at the last hearing, and in which letter the Bulgarian Government states:

* * * that upon instructions received by the Ministry of Finance of the People's Republic of Bulgaria, that in view of the provisions of Article III of the Agreement concluded between the Bulgarian and USA Governments in July 1963, he will have to ask the Government of the United States to pay his property losses.

From the aforesaid it becomes clear that the U.S. Government sacrificed the interests of its citizens which were guaranteed by treaties and by express provisions of congressional acts.

This represents a taking without due process of law.

If the United States entered into this waiver, it probably thought it to be in the national interest, but it has always been the traditional policy of the United States in such cases to regard itself as liable for the American claimants for the full amount of the losses. As early as 1821 in connection with the so-called French spoliation claims, Henry Clay declared that the rule of equity provided by the Constitution was that private property shall not be taken for public use without just compensation and he added that this applies also to the citizen who is entitled to substitute his own country as debtor instead of the foreign country which has an obligation to pay his claim. At that time the Congress empowered the Court of Claims to examine the claims and to determine their validity and amount, and after the Court of Claims found that the American claimants were entitled to indemnity under the Constitution for the taking of their property without compensation (see *Gray, Administrator v. United States*, 21 Ct. Cls. 340), an appropriation was enacted.

After World War II, former Secretary of State Dulles, when the Japanese peace treaty was under deliberation, expressly stated that U.S. nationals whose claims were sacrificed by the Japanese peace treaty should look to the Congress for relief.

Madam Chairman, we wish to emphasize that we do not question the right to compensation of those American citizens, whose properties were taken after August 9, 1955.