

American principle of equal protection before the law, that prior to final deliberation of any claims legislation Congress be provided with complete, up to date and correct information on the relevant matter in Public Hearings, including testimony of the outstanding USA authorities of international law who were responsible for the UN Draft Codification on Responsibility of States especially with regard To Espousal and Presentation of Claims by States Article 23, 6, regarding nationality requirements.

Respectfully requesting that based on such information and the fact conceded by the State Department that distribution on the funds is a domestic matter, the nationality requirements in the United States policy abroad and in United States Foreign and War Claims Legislation be reappraised and the guiding principle should be just and equal treatment to all citizens of the United States.

No principle of international law of our time precludes the State Department from diplomatic espousal of claims of "new" citizens.

Moreover, only the United States and not the country from where the new citizen came from can present such claims.

The following policy statements show the anachronistic position of the State Department leading to wrong assumptions of international law reflecting later in domestic legislation.

It was and is incorrect and it is not in accordance with later enumerated facts to state:

"In accordance with the normal rule of international law, this government is precluded from espousing or presenting the claims of individual claimants who were not nationals of the United States at the time their claims arose."

(State Department Press Release No. 273, 1960)

(August 2, 1961 hearings before the Interstate and Foreign Commerce Subcommittee, on Interstate and Foreign Commerce.) Mr. Gilliland.

"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." (Aug. 9, 1965, Assistant Secretary, Douglas MacArthur, p. 95 Report S1935).

* * * "that is a rule that is followed all over the world." page 25, August 2, 1961 S- Senate Judiciary Subcommittee hearings, page 133.

These statements are contradicted by:

1. Outstanding United States authorities on International Law;
2. By the Claims Settlement Practice of several foreign countries;
3. Even by the practice of the United States—Japanese Property Commission.

Congress was not aware of these facts prior to the enactment of Public Law 87-846 nor its hearings of the Omnibus Bill S. 1935.

Unfortunately the impact of not up to date and incorrect information of International Law, on domestic legislation prevails.

It obviously explains also why the Legislators, for example, the former chairman of the Committee on the Judiciary of the Subcommittee Trading with the Enemy Act, the late Senator Olin Johnston erroneously stated on June 18, 1959 (page 218-219 hearings record), that the new citizens—

"Have to get relief from the country where they came from * * * we will help if we can; we cannot change international law that is where we are stopped right there".

It is impossible to reconcile these contentions with the factual situation.

That domestic legislation cannot be stopped by international law was conceded by the State Department in the House hearings of the Subcommittee on Interstate and Foreign Commerce, August 6, 1959. (Page 711, Hearings Record).

Mr. Dingell: "Distribution of funds is a matter of domestic policy and not a matter of international law". Mr. English of the State Department replied, "That is right".

That law, rules have to adapt to new situations when circumstances change is a fundamental of any realistic jurisprudence.

Diplomatic protection of claims of "junior" citizens is not precluded by international law. Only the United States and not the country "from where they came from" can under international law present such claims.

This was affirmed in July 1961 when at the suggestion of the Codification Division of the Office of Legal Affairs of the United Nations Secretariat, the Harvard Law School agreed to revise Professor E. M. Borchard's 1929 Draft Convention on State Responsibility which is also relevant to protection of claims of new citizens.