

INTERNATIONAL CLAIMS SETTLEMENT ACT

67061946

HEARING
BEFORE THE
SUBCOMMITTEE ON EUROPE
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
NINETIETH CONGRESS
FIRST SESSION
ON
H.R. 9063

AN ACT TO AMEND THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED, TO PROVIDE FOR THE TIMELY DETERMINATION OF CERTAIN CLAIMS OF AMERICAN NATIONALS, AND FOR OTHER PURPOSES

MAY 24 AND JUNE 27, 1967

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INTERNATIONAL CLAIMS SETTLEMENT ACT

WEDNESDAY, MAY 24, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON EUROPE,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 2255, Rayburn House Office Building, Hon. Edna F. Kelly (chairman of the subcommittee) presiding.

Mrs. KELLY. The committee will please come to order. We meet this morning to begin hearings on H.R. 9063.

At this point, I am going to ask that the background of this legislation be placed in the record.

(The documents referred to follow:)

TEXT OF EXECUTIVE COMMUNICATION 653

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., April 11, 1967.

HON. JOHN W. McCORMACK,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Transmitted herewith in behalf of the Executive Branch for the consideration of the 90th Congress is the draft of a proposed bill entitled, "A Bill to amend the International Claims Settlement Act of 1949, as amended, to provide for the timely determination of certain claims of American nationals, and for other purposes."

This bill proposes certain amendments to titles I and III of the International Claims Settlement Act of 1949, as amended, which would, among other things, provide for the implementation of the United States-Rumanian Claims Settlement Agreement of March 30, 1960, and the United States-Bulgarian Claims Settlement Agreement of July 2, 1963.

The bill also contains a proposal to reopen the Italian Claims program under section 304 of the International Claims Settlement Act of 1949, as amended, to provide for claims of certain United States nationals who have thus far failed to recover their World War II losses. Payment of such claims would be made out of the residual amount in the Italian Claims Fund.

A proposal is also made under item (1) of the draft bill to relieve the Treasury Department of extensive administrative burdens in deducting administrative expenses from the respective claims funds instead of from each award by the Commission as required under the present provisions of the Act.

Five other proposals contained in the draft measure are designed to provide for the implementation of the United States-Rumanian Claims Settlement Agreement of March 30, 1960, and the United States-Bulgarian Claims Settlement Agreement of July 2, 1963:

A. A proposal to enable the Secretary of the Treasury to cover the payments by governments with which the United States Government concludes en bloc claims settlement agreements into the respective Claims Funds.

B. A proposal to provide for a new category of claims against the Rumanian Claims Fund and the Bulgarian Claims Fund.

C. A proposal requiring the Commission to publish notice of the programs in the Federal Register.

D. A proposal providing for equitable payments on awards.

E. A proposal providing for the orderly completion of the Rumanian and Bulgarian programs.

The items covered in the draft proposal will involve little, if any, cost. In any event, the cost of effectuating any of the proposals would be borne by the claims fund concerned and not the United States Government.

The Commission cannot proceed in the orderly administration of the Rumanian and Bulgarian Claims program unless the items pertaining to them are enacted. With respect to the remaining items, these are considered good administrative housekeeping which should not be left at loose ends. Moreover, it is important that this legislation be enacted promptly because the Government of Rumania made its final installment payment of \$500,000 under the terms of the Agreement of March 30, 1960 on July 1, 1964. The Government of Bulgaria has completed making its payments in the amount of \$400,000 pursuant to the terms of the Agreement of July 2, 1963.

For these reasons the Commission urges early and favorable action on the proposed bill.

The Bureau of the Budget advises that the enactment of this proposal would be consistent with the Administration's objectives.

Accompanying the draft bill is a section-by-section analysis of its provisions.

Sincerely yours,

EDWARD D. RE, *Chairman.*

[Text of H.R. 9063, 90th Cong., first sess.]

A BILL To amend the International Claims Settlement Act of 1949, as amended, to provide for the timely determination of certain claims of American nationals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Claims Settlement Act of 1949, as amended, is further amended as follows:

(1) Subsection (f) of section 4, title I, is hereby amended to read as follows:

"(f) 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 fined not more than \$5,000 or imprisoned not more than twelve months, or both."

(2) Subsection (b) of section 7, title I, is amended by inserting "(1)" after the subsection letter, and adding at the end thereof the following paragraph:

"(2) The Secretary of the Treasury shall deduct from any amounts covered, subsequent to the date of enactment of this paragraph, into any special fund, created pursuant to section 8, 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts."

(3) Paragraph (1) of subsection (c), section 7, title I, is hereby amended to read as follows:

"(1) 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."

(4) Subsection (c) of section 8, title I, is amended by inserting the phrase "prior to the date of enactment of the amendment of this paragraph," immediately after the word "covered" and before the word "into", and by inserting "(1)" after the words "section 7 (b)" and before the words "of this title."

(5) Section 8, title I, is hereby further amended by adding at the end thereof the following subsection:

"(e) The Secretary of the Treasury is authorized and directed out of sums covered, subsequent to the date of enactment of this subsection, into any special fund created pursuant to this section to make payment on account of awards certified by the Commission pursuant to this title with respect to claims included

within the terms of a claims settlement agreement concluded between the Government of the United States and a foreign government as described in subsection (a) of section 4 of this title, as follows and in the following order of priority:

"(1) Payment in the amount of \$1,000 or the principal amount of the award, whichever is less;

"(2) Thereafter, payments from time to time on account of the unpaid principal balance of each remaining award which shall bear to such unpaid principal balance the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards; and

"(3) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which shall bear to such unpaid balance of interest, the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards."

(6) Section 302, title III, is amended by inserting "(a)" after the section number and adding at the end thereof the following subsection:

"(b) The Secretary of the Treasury shall cover into each of the Bulgarian and Rumanian Claims Funds such sums as may be paid by the Government of the respective country pursuant to the terms of any claims settlement agreement between the Government of the United States and the Government of such country."

(7) Section 303, title III, is amended by striking out the word "and" at the end of paragraph (2), and by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and immediately thereafter the word "and".

(8) Section 303, title III, is further amended by adding at the end thereof the following new paragraph:

"(4) pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States in Bulgaria and Rumania, between August 9, 1955, and the effective date of the claims agreement between the respective country and the United States."

(9) Section 304 of title III is amended by inserting "(a)" after the section number and adding at the end thereof the following subsections:

"(b) The Commission shall receive and determine, or redetermine as the case may be, in accordance with applicable substantive law, including international law, the validity and amounts of claims owned by persons who were nationals of the United States on August 9, 1955, which arose out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy: *Provided*, That no awards shall be made to persons who have received compensation in any amount pursuant to subsection (a) of this section or under section 202 of the War Claims Act of 1948, as amended, or to persons whose claims have been denied by the Commission for reasons other than that they were not filed within the time prescribed by section 306.

"(c) The Commission shall receive and determine, or redetermine as the case may be, in accordance with applicable substantive law, including international law, the validity and amounts of claims owned by persons who were nationals of the United States on September 3, 1943, and the date of enactment of this subsection, against the Government of Italy which arose out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, in territory ceded by Italy pursuant to the treaty of peace with Italy: *Provided*, That no awards shall be made to persons who have received compensation in any amount pursuant to the treaty of peace with Italy or subsection (a) of this section.

"(d) Within thirty days after enactment of this subsection, or within thirty days after the date of enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under subsections (b) and (c) of this section, whichever date is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed with the Commission, which limit shall not be more than six months after such publication.

"(e) The Commission shall certify awards on claims determined pursuant to subsections (b) and (c) of this section to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund in accordance with the provisions of section 310 of this title, after payment in full of all awards certified pursuant to subsection (a) of this section.

"(f) After payment in full of all awards certified to the Secretary of the Treasury pursuant to subsections (a) and (e) of this section, the Secretary of the Treasury is authorized and directed to transfer the unobligated balance in the Italian Claims Fund into the War Claims Fund created by section 13 of the War Claims Act of 1948, as amended."

(10) Section 306, title III, is amended by inserting "(a)" after the section number and adding at the end thereof the following subsection:

"(b) Within thirty days after enactment of this subsection or the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (4) of section 303 of this title, whichever is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed under paragraph (4) of section 303 of this title, which limit shall not be more than six months after such publication."

(11) Section 310, title III, is amended by adding at the end of subsection (a) thereof the following paragraph:

"(6) Whenever the Commission is authorized to settle claims by the enactment of paragraph (4) of section 303 of this title with respect to Rumania and Bulgaria, no further payments shall be authorized by the Secretary of the Treasury on account of awards certified by the Commission pursuant to paragraph (1), (2), or (3) of section 303 of the Bulgarian or Rumanian Claims Funds, as the case may be, until payments on account of awards certified pursuant to paragraph (4) of section 303 with respect to such fund have been authorized in equal proportion to payments previously authorized on existing awards certified pursuant to paragraphs (1), (2), and (3) of section 303."

(12) Section 316, title III, is amended by inserting "(a)" after the section number and adding at the end thereof the following subsection:

"(b) The Commission shall complete its affairs in connection with the settlement of claims pursuant to paragraph (4) of section 303 and subsections (b) and (c) of section 304 of this title not later than two years following the date of enactment of such paragraph, or following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (4) of section 303 and subsections (b) and (c) of section 304 of this title, whichever is later."

SECTION BY SECTION SUMMARY OF PROVISIONS OF H.R. 9063

Paragraph 1: Lawyers' Fees

The bill amends Sec. 4(f) of Title I of the International Claims Settlement Act to relieve the Foreign Claims Settlement Commission of the responsibility for determining attorney's fees and to relieve the Treasury of the responsibility for paying such fees directly to the attorneys concerned. Instead, the new language provides that such fees shall not exceed 10 percent of the total amount paid pursuant to an award certified by the Commission.

The original provision of Title I pertained to the Yugoslav Claims Program which was completed in 1954, some time before the Foreign Claims Settlement Commission came into existence. The Commission has never attempted to fix lawyers' fees. Instead, while administering claims against Bulgaria, Hungary, Rumania, Italy and the Soviet Union, the Commission was bound by the language of Sec. 317, Title III, of the Act which simply restricts lawyers' fees to 10 percent of the total amount paid pursuant to an award—except in cases in which the Commission specifically authorizes a higher fee.

The Commission proposes to handle the new Yugoslav Claims Program, and the Polish Claims Program, under the authority of Title I of the Act. The change being proposed in Paragraph 1 of H.R. 9063 is intended to bring the lawyers' fees provision of Title I into conformity with similar provisions in Titles III and IV.

It should be noted, however, that H.R. 9063 does *not* strike the authority of the Commission, contained in Sec. 317(b) of the Act, to fix lawyers' fees under certain claims programs, carried out pursuant to the authority of Title III, at a level *higher than 10 percent*.

Paragraph 2: Deductions for Administrative Expenses

All claims funds administered by the Commission have been charged with financing the administrative expenses of the Commission and the Treasury. Therefore, section 7(b) of Title I of the International Claims Settlement Act of 1949, as

amended, presently provides for the deduction of 5% of any payment made on an award. Legislation enacted subsequent to Title I, i.e., Titles III and IV, provides instead for a direct deduction of 5% from each payment into the respective funds. This method lifts an extensive administrative burden from the Treasury Department.

Paragraph (2) of H.R. 9063 contains a provision comparable to section 302 of Title III and section 402(e) of Title IV, and provides for a direct 5 per cent deduction from any amounts covered, subsequent to the date of enactment of the proposed amendments, into any special fund created pursuant to section 8, including (1) the Polish Claims Fund; (2) the fund contemplated by the Yugoslav Claims Agreement of November 5, 1964, which calls for five annual payments of \$700,000, to be completed in 1970, and (3) any other similar funds which may be established in the future.

Paragraph 3: Payments in Case of Legal Disability or Death

Paragraph (3) of the bill amends section 7(c)(1) of the Act which provides that the payment of awards may be made only to the persons entitled thereto, except in cases involving legal disability or death. Where the award does not exceed \$500, requirements with respect to the appointment of a qualified executor or administrator may be waived and payment made to the person or persons found by the Comptroller General to be entitled thereto.

The proposed amendment would raise the limit in such cases from an award not in excess of \$500 to one not in excess of \$1,000. This change would make Title I conform to the present provisions of Title IV of the Act and will result in a more orderly and efficient disposal of claims.

Paragraph 4: Technical Amendments Relating to Claims Arising Under the Yugoslav Claims Agreement of 1948 and the Polish Claims Agreement of 1960

Paragraph (4) of the bill proposes technical changes in the language of subsection (c) of section 8 of the Act. These changes are made necessary by the proposed amendments to section 7(b). They are intended to assure retention, for historical purposes, of the basis for payments up to this time on awards under the Polish Claims Agreement of 1960, and under the Yugoslav Claims Agreement of 1948, on which further prorated payments are being made.

Paragraph 5: Payments Procedure

Paragraph (5) of the bill adds a new subsection (e) to section 8 of the Act to authorize the Secretary of the Treasury to make payments on awards certified by the Foreign Claims Settlement Commission with respect to claims included within the terms of the Polish Claims Agreement of 1960, the Yugoslav Claims Agreement of 1964, and any other similar agreement which may be concluded in the future.

The new subsection provides that payments are to be made in the following order of priority: (1) payment in the amount of \$1,000 or in the principal amount of the award, whichever is less; (2) thereafter payments on a prorated basis on the unpaid principal balance of each remaining award; and (3) finally, payments on the unpaid balance of each award of interest on the same prorated basis.

The granting of authority to make periodic, prorated payments was recommended because the Polish and the Yugoslav Claims Agreements—and possibly some other agreements to be concluded in the future—do not call for a lump-sum settlement. In the case of Yugoslavia, payments into the claims fund will be made over a period of five years; in the case of Poland, 20 years. It should be noted, however, that the proposed amendment would make no change in the present 3rd round of Polish payments.

Paragraph 6: Reopening of Bulgarian and Rumanian Claims Programs

Paragraph (6) of the bill adds a new subsection (b) to section 302 of the Act to authorize the transfer into the Rumanian and Bulgarian claims funds of money received from those countries pursuant to the Claims Settlement Agreements of 1960 and 1963, respectively.

Inasmuch as the statute now provides that the Rumanian and Bulgarian Funds shall be comprised only of sums blocked, vested and transferred by the Attorney General under the Trading With the Enemy Act, the additional sums paid by Rumania and Bulgaria cannot be covered into the Funds. New subsection (b) provides the vehicle for accomplishing this purpose.

Paragraph 7: Technical Amendment

Paragraph (7) of the bill proposes a technical change in section 303 of the Act to permit the addition of a new paragraph (4), described below.

Paragraph 8: New Claims Under the Bulgarian and the Rumanian Claims Programs

Paragraph (8) of the bill adds a new subparagraph (4) to section 303 of the Act to provide for the disposition of claims against Rumania, included within the agreement of March 30, 1960, and against Bulgaria, included within the agreement of July 2, 1963.

These claims have arisen since August 1, 1955 and are based upon the nationalization, compulsory liquidation, or other taking of property of nationals of the United States by those countries.

Claims of this nature which arose prior to August 1, 1955, were disposed of by the Foreign Claims Settlement Commission under the original Bulgarian and Rumanian programs which were completed on August 9, 1959.

Paragraph (9): Reopening of the Italian Claims Program

Paragraph (9) of the bill amends section 304 of the Act to provide for the reopening and extension of the Italian claims program to cover (a) claims not previously compensable because of late filing; (b) claims of persons who had become U.S. nationals on or before August 9, 1955 and who did not file claims under the earlier Italian Claims Program; and (c) claims heretofore excluded from consideration which arose in territory ceded by Italy in the Treaty of Peace, including the Dodecanese Islands.

Claims of persons who received compensation under the original Italian Claims Program, under section 202 of the War Claims Act, or under the Treaty of Peace with Italy, would be excluded.

Any balance remaining after payment of the claims referred to above would be transferred to the war claims fund created under section 13 of the War Claims Act of 1948, as amended.

Paragraph (1) also requires the Foreign Claims Settlement Commission to publish the claims filing period in the Federal Register.

Paragraph 10: Filing of Claims under the New Bulgarian and Rumanian Claims Programs

Paragraph (10) of the bill adds new subsection (b) to section 306 of the Act to provide that the Foreign Claims Settlement Commission shall publish in the Federal Register "the time when and the limit of time within which claims may be filed" under the reopened Bulgarian and Rumanian Claims Programs, "which limit shall not be more than 6 months after such publication."

Paragraph 11: Payments Procedures for the Bulgarian and Rumanian Claim Programs

Paragraph (11) of the bill amends section 319(a) of the Act by adding a new paragraph which changes the award payment procedures with respect to claims against Bulgaria and Rumania.

The purpose of this amendment is to insure that new awardees will not gain a pecuniary advantage over claimants who received awards under the original Bulgarian and Rumanian Claims Programs.

The earlier awardees received approximately 50 per cent of the awards (exclusive of interest) under the Bulgarian program, and 35 per cent of the awards (exclusive of interest) under the Rumanian program.

The pending proposal would limit payments on new awards to a like extent and then provide for the distribution of the residual balance on a prorated basis among all awardees.

Paragraph 12: Termination of the Bulgarian, Italian and Rumanian Claims Programs

Paragraph (12) of the bill adds a new subsection (b) to section 316 of the Act to provide that the Foreign Claims Settlement Commission shall complete its affairs in connection with the Bulgarian, Italian and Rumanian claims programs within a period of 2 years.

Mrs. KELLY. We are delighted to have Dr. Edward Re, Chairman of the Foreign Claims Settlement Commission of the United States, here this morning to open our hearings. I am going to ask you, Dr. Re, to proceed in any manner you want. If there is anything you want to add later for the record, I wish you would do so.

I know that you have a prepared statement. You may want to read it in its entirety, or summarize it. That is up to you. In any event, we will include your prepared statement in the record.

**STATEMENT OF DR. EDWARD D. RE, CHAIRMAN, FOREIGN CLAIMS
SETTLEMENT COMMISSION OF THE UNITED STATES**

Mr. RE. Thank you very much, Mrs. Kelly.

Madam Chairman, and members of the subcommittee, it is a genuine pleasure for me to be here in support of H.R. 9063, entitled "A bill to provide for the timely determination of certain claims of American nationals, and for other purposes."

I have a formal statement concerning this legislation, but inasmuch as it contains many technical provisions, I would prefer to make some general remarks that might prove to be helpful.

I am sure that the statement is adequate in explaining the provisions of the bill, but I hope that my remarks may be helpful in understanding the statement.

Basically, the bill is designed to clear up several administrative problems facing the Commission. Since 1960 the U.S. Government has entered into claims settlement agreements with Bulgaria, Rumania, and Yugoslavia.

The commission completed those claims programs with respect to Bulgaria and Rumania in 1959. Awards in the Bulgarian program numbered 217 in the aggregate amount of \$6,571,825. During the war the U.S. Government had seized Bulgarian assets amounting to \$2,613,325. This provided for payments of approximately 50 cents on the dollar on the awards.

Under the July 2, 1963, agreement the Bulgarian Government has paid to the United States an additional \$400,000. This sum will permit a further payment on the unpaid balances of the awards and will also permit the consideration of any new claims which may have arisen between 1955 and 1963.

Similarly, the Government of Rumania has paid an additional \$2.5 million to the U.S. Government. The date of the agreement with Rumania is March 30, 1960.

Under the Rumanian program the Commission issued 498 awards in the aggregate amount of \$84,729,291. During World War II the Government of the United States seized Rumanian assets totaling \$20,057,346. This permitted payments of approximately 30 percent on the awards.

The bill, insofar as Bulgaria and Rumania are concerned, will permit the transfer of these additional sums into the respective funds which are now technically established in a manner which prevents deposit into the funds.

There is also a new agreement with Yugoslavia which provides for the payment to the U.S. Government of a sum of \$3.5 million in five annual installments of \$700,000 each. These payments commenced on January 1, 1966.

In 1948, Yugoslavia paid a lump sum to the United States in the amount of \$17 million in settlement of nationalization claims against Yugoslavia. The date of the new agreement is November 5, 1964. The date of the original agreement is July 19, 1948.

In accordance with the applicable statute the Yugoslav program was completed on December 31, 1954. Since 1948 Yugoslavia has nationalized additional United States owned properties and the recent agreement is designed to compensate for these more recent takings.

The portion of the bill concerning Yugoslavia is therefore designed to create an appropriate Yugoslav fund in the Treasury against which awards by the Commission may be certified.

Another portion of the bill relates to the payment of attorneys' fees by claimants before the Commission. Under most of the statutes administered by the Commission, attorneys' fees are limited to payments not in excess of 10 percent of the payments on the awards.

However, under title I of the International Claims Settlement Act the Commission has the authority to designate the amount of attorneys' fees within the 10 percent perimeter. For the sake of uniformity, and because the Commission prefers to leave such matters between attorney and client, the bill proposes to modify the provisions of title I to be consistent with all other programs.

Most of the programs administered by the Commission provide for a 5-percent deduction to the general fund of the Treasury from the respective funds. This sum is designed to compensate the United States for the administrative costs incurred by the Commission and the Treasury Department.

However, title I provides that the 5 percent be deducted from each payment on each award certified to the Treasury by the Commission. The straight 5-percent deduction from the overall fund simplifies this procedure substantially and eliminates an extensive burden for the Treasury Department. It is therefore recommended that this change be adopted.

A further change in the present statute would permit payments on awards to be made to a legal representative of an awardee where the latter is deceased or under a legal disability.

The present requirement is that the award in such cases may not exceed \$500. The new proposal would increase this amount to \$1,000, eliminating the necessity for a probate of the estate.

Finally, the bill provides for an extension of the Italian claims program. This program was provided for under an agreement between the Italian Government and the U.S. Government negotiated in 1947.

This agreement, Madam Chairman, is referred to as the Lombardo Agreement. Under it the Italian Government paid to the United States a lump sum of \$5 million in settlement of all U.S. claims against it which were not provided for under the treaty of peace.

This program commenced on September 30, 1955. In 1958, the statute was amended to cover claims of persons who, though not U.S. citizens on the date of loss, had become so by August 9, 1955, the date of enactment of the statute. However, no provision was made for extending the filing period.

Therefore, the Commission could only consider claims in that category which had been timely filed but denied because the claimants failed to fulfill the nationality requirements.

The Italian program was completed on May 31, 1960, and there remains in the Italian claims fund a balance of \$1,088,000. There was no provision in the agreement for the return of the unexpended balance to Italy.

This portion of the bill proposes the disposition of the balance in the fund to persons whose claims were denied for late filing, late nationality, that is, persons not U.S. nationals at the time of loss but who had become so by August 9, 1955, and persons whose claims had been denied under local Italian legislation, the treaty of peace, and the program administered by the Commission.

This proposal would also include claims for property losses principally in the Dodecanese Islands which were under the jurisdiction of Italy until the end of the war but which were then ceded to Greece. Under the peace treaty such claims were supposed to have been covered. Italy did not compensate for these claims, and the Commission, in its earlier Italian program, determined that they were peace treaty claims and denied them.

It is now proposed to utilize the balance in the Italian claims fund to provide some measure of compensation for those persons for whom no other recourse is available.

It is contemplated that the Commission may receive as many as 500 claims in this category. Commission records reflect that there were 238 denials in this group of claims previously made. Provision is also made in the bill that any sums remaining in the Italian claims fund be transferred to the war claims fund.

For the reasons that I have set forth, it is urged that H.R. 9063 be enacted. It is necessary from an administrative standpoint to enable the Commission to complete its affairs in relation to the various programs to which reference has been made. At the same time, it is necessary and desirable to dispose of the balance remaining in the Italian claims fund.

I think it would be proper for me to add that none of these programs would involve any cost to the U.S. Government. All of the expenses are borne by the funds themselves.

Madam Chairman, that, I think, is about all I would like to state, because I think that the formal statement that I have presented is adequate in explaining the legislation. The Commission has also submitted a section-by-section analysis of the bill.

Thank you very much.

Mrs. KELLY. Thank you very much, Dr. Re. Without objection I am going to place your complete statement in the record at this point. (There was no objection and the statement referred to follows.)

STATEMENT OF DR. EDWARD D. RE, CHAIRMAN FOREIGN CLAIMS SETTLEMENT COMMISSION

Madam Chairman and members of the subcommittee, it is a pleasure and a privilege to appear before you today as Chairman of the Foreign Claims Settlement Commission in support of H.R. 9063 entitled, "A Bill to provide for the timely determination of certain claims of American nationals, and for other purposes."

GENERAL SCOPE OF H.R. 9063

The bill, H.R. 9063, proposes amendments to Titles I and III of the International Claims Settlement Act of 1949, as amended, which directly affect the activities of the Foreign Claims Settlement Commission.

This bill is similar to S. 1987 and H.R. 10712 in the 87th Congress, S. 947 in the 88th Congress, and S. 1935 in the 89th Congress, which were not enacted. It involves technicalities designed principally to put the business of the Commission in order and to provide good administrative procedures with respect to the new Bulgarian, Rumanian, Yugoslav and Italian programs.

The bill, if enacted, would provide further compensation for Americans who have received only partial payment on their awards, provides for the filing of new claims by citizens whose losses occurred after the execution of international agreement or enactment of enabling legislation, and provides compensation for a small group found to have been excluded from coverage under treaties and statutes.

These potential claimants have been constantly corresponding with the Commission during the past six or more years, individually and through their Senators and Congressmen, urging that the executive, as well as the legislative, branch support enactment of legislation included in H.R. 9063.

For the most part, this bill would update the International Claims Settlement Act of 1949, as amended, in light of the recent claims agreements which have been concluded between the United States and the Governments of Bulgaria, Rumania and Yugoslavia. To a limited extent, it would reopen the Italian claims program as provided under Title III of the Act.

The bill, H.R. 9063, differs from S. 1935 in the 89th Congress in that no proposals are made with respect to the administration of the Polish claims program. The reason for this omission is that the Polish program, under the Polish Claims Agreement of July 18, 1960, was administered by the Commission pursuant to the provisions of Title I of the International Claims Settlement Act of 1949, as amended, from its inception on September 1, 1960, until its completion on March 31, 1966. Consequently, there is no longer any necessity for statutory amendments relating to this program. Paragraph 5 of the proposed bill would, however, affect future pro rated payments to the awardees of the Polish program. The simplified order of priorities for payment of awards, as proposed under paragraph 5 of the bill, would apply to award payments from sums covered into the Polish Claims Fund subsequent to the date of enactment of such proposal.

PROVISIONS FOR ATTORNEYS FEES

A proposal is made under the bill to amend subsection (f) of section 4 which would have the effect of relieving the Commission of the burden of determining attorneys' fees. It would thereby make Title I consistent with the attorney fee provisions of Titles III and IV of the Act.

Section 4(f) presently provides for a limitation on attorneys' fees of 10% of any payment on an award made by the Commission but authorizes the Commission to set the amount of such fee within the 10% limitation. Further provision is made for deduction by the Secretary of the Treasury of the amount of the fee and for payment directly to the attorney. Titles III and IV of the Act simplify this procedure by authorizing a flat 10% fee and leaves the settlement to the attorney and client.

DEDUCTION OF FIVE PERCENT

An amendment is also proposed to change the existing procedures under section 7(b) which presently provides for a direct deduction of 5% of any payment made on an award. This procedure was changed under Titles III and IV by providing for a direct deduction of 5% from each deposit into the respective funds thus eliminating an extensive administrative burden for the Treasury Department.

H.R. 9063 proposes to incorporate the provisions comparable to those of Title IV to apply (1) to future payments received from the Polish Government under the terms of the Polish Claims Agreement of July 16, 1960, which payments are to be completed in 1980; (2) to payments into the fund contemplated by the new Yugoslav Claims Agreement of November 5, 1964, which calls for five annual payments of \$700,000 to be completed in 1970; and (3) to payments into any other similar funds which may be established in the future.

PAYMENT TO LEGAL REPRESENTATIVES

The bill further provides for an amendment to paragraph (1) of subsection (c) of section 7 of Title I which deals with payments to a legal representative where the person to whom any payment is made is deceased or is under a legal disability. This section presently provides that where the award does not exceed \$500 requirements with respect to the appointment of a qualified executor or administrator are waived and payment may be made to the person or persons found by the Comptroller General to be entitled thereto. This amendment raises the limit from an award not in excess of \$500 to any payment not in excess of \$1,000. A similar change was made regarding claims under Title IV of the Act against the Government of Czechoslovakia.

PRO RATA PAYMENT ON AWARDS

Unlike the Yugoslav Agreement of 1948, whereby the lump-sum settlement consisted of a single payment, subsequent claims agreements have provided for payments in installments. Therefore, the present provisions of section 8(b), which deal with payment priorities, were geared to the Yugoslav settlement. They provide for additional payments up to 25 per centum of the unpaid principal of

awards in amounts in excess of \$1,000 after payments of awards in the amount of \$1,000 or less have been paid in full.

The bill proposes to amend the present language of section 8(c) in the event future prorated payments are made under the Yugoslav Claims Agreement of 1948 and to add a new subsection (e) to apply to award payments from sums covered, subsequent to the date of enactment of the proposed amendments, into the Polish Claims Fund, the Yugoslav Claims Agreement of 1964, and any other similar agreement made subsequently with respect to payment priorities. The new subsection is similar to the language of Title III of the Act which provides payment in the amount of \$1,000 or in the principal amount of the unpaid principal balance of each remaining award. After payment in full of the principal amount of awards, payment is authorized on account of the unpaid balance of each award of interest in the same prorated basis.

BULGARIAN AND RUMANIAN CLAIMS PROGRAMS

The bill contains certain amendments to Title III of the International Claims Settlement Act of 1949 with respect to claims against Bulgaria, Rumania and Italy.

The first amendment to Title III relates to section 302 by adding subsection (b).

This new subsection permits the transfer into the Rumanian and Bulgarian Claims Funds of money derived from the Rumanian Claims Agreement on March 30, 1960, and the Bulgarian Agreement of July 2, 1963. The statute now provides that the Rumanian and Bulgarian Funds shall be comprised only of sums blocked and vested and transferred by the Attorney General. The additional funds realized from the respective agreements cannot be transferred into these Funds unless the Act is amended. H.R. 9063 proposes such an amendment. The additional net amount available to be transferred into the Rumanian Fund is \$2.5 million. Under the Bulgarian Agreement the Bulgarian Government agreed to pay \$400,000 of which \$200,000 was paid on July 1, 1964 and the balance was paid on July 1, 1965.

Certain technical changes are also proposed under section 303 to permit the disposition of a small number of claims against Rumania, included within the Agreement of March 30, 1960, and against Bulgaria, included within the Agreement of July 2, 1963. These claims, which have arisen since August 9, 1955, are based upon the nationalization, compulsory liquidation, or other taking of property of nationals of the United States by those countries. Claims of this nature, arising prior to August 9, 1955, were disposed of by the Commission in a previous program completed on August 9, 1959. An amendment is also proposed to permit a six month filing period for these new claims and a two year settlement period. Also included under the bill is an amendment to revamp the award payment provisions with respect to claims against Rumania and Bulgaria in order to insure that the new awardees will not obtain a pecuniary advantage over previous awardees. Awardees under the Rumanian program have received approximately 35 cents on the dollar in payment on their awards. Awardees under the Bulgarian program have received approximately 50 cents on the dollar in payment on their awards. This amendment would limit payments on new awards to a like extent, and then permit the residual balance to be distributed proportionately among all awardees.

ITALIAN CLAIMS PROGRAM

This bill contains a proposal regarding the residual balance in the Italian Claims Fund. Such proposal is the same as that contained under S. 1935, 89th Congress.

For background information concerning these claims, the attention of the Committee is invited to the provisions of Article 78 of the Treaty of Peace with Italy under which the Italian Government was required to restore all rights and interests to property within the territorial limits of Italy belonging to United Nations nationals. If the property could not be returned, or if, as a result of the war, a United Nations national had suffered a property loss, he was entitled to compensation in lire to the extent of two-thirds of the sum necessary, at the date of payment, to purchase property or be indemnified for the loss suffered.

In 1947, under the Lombardo Agreement, the Italian Government paid the United States the sum of \$5 million, to be utilized in such manner as the Government of the United States might deem appropriate, to be applied to claims of United States nationals arising out of the war with Italy and for which no other provision had been made. Subsequently, Public Law 285, 84th Congress, was enacted on August 9, 1955, which authorized the settlement of those claims

against Italy for which no provision had been made under the Treaty of Peace with Italy.

By August 8, 1958, it was apparent that the Italian Claims Fund would be more than sufficient to pay anticipated awards against the Government of Italy. On that date the statute was amended by Public Law 85-604, section 2, to permit awards to persons who were nationals of the United States on August 9, 1955, the date of enactment of Title III of the Act, even though their claims were based upon property losses occurring at an earlier date. The amendment, in effect, broadened the international law principle requiring continuous United States nationality of a claim from the date of loss to the date of filing. Thus all claims previously denied under the original provisions of Sec. 304 of the Act because of failure to qualify under the international law principle, but which would be eligible for awards under the amendment, had to be reconsidered. Under this amendment over 100 claims were reconsidered and the amounts of the awards totalled \$606,464.00. In order to permit the Commission to complete its determinations with respect to these claims, the time limitation under section 316 was waived and the program was completed on May 1, 1960. No amendment, however, was made to section 306 or any other section of the Act providing for the filing of new claims.

The bill, H.R. 9063, would reopen and extend the Italian claims program to cover claims under section 304 of the Act, not previously compensable because of late filing, and claims of persons who had become nationals of the United States on or before August 9, 1955 who had not filed under the original statute.

The proposal would also include claims arising in territory ceded pursuant to the Treaty of Peace with Italy, including the Dodecanese Islands which were heretofore excluded under the provisions of the Act. Excluded from consideration are claims of persons who have received compensation previously pursuant to section (a) of section 304, section 202 of the War Claims Act of 1948, as amended, or under the Treaty of Peace with Italy. Any balance remaining in the Italian Claims Fund after payment of claims as proposed under these amendments is to be transferred into the War Claims Fund established under section 13 of the War Claims Act of 1948, as amended. The present balance in the Italian Claims Fund is approximately \$1,088,000.

YUGOSLAV CLAIMS PROGRAM

Unlike the Rumanian Claims Agreement of March 30, 1960 and the Bulgarian Agreement of July 2, 1963, which permit the residual balance to be distributed proportionately among all awardees after the disposition of the new claims as provided under the Agreements, the Yugoslav Agreement of November 5, 1964 provides money only for the payment of new claims of American nationals arising between July 19, 1948 and November 5, 1964. Awardees under the first Yugoslav Agreement cannot receive additional prorated payments after the disposition of awards to the new claimants. Moreover, the Government of Yugoslavia is required under the 1964 Agreement to pay the United States Government the sum of \$3.5 million to be payable in 5 equal installments of \$700,000 each, due on January 1st of each year starting in 1966.

Since it was not certain whether the first installment would be paid on January 1, 1966, the Commission was reluctant to commence the program until such time as the initial payment had been made. This payment was, in fact, made by the Yugoslavian Government on the date due. The second installment payment, due January 1, 1967, has also been made. Appropriations for the administrative expenses of this program were included in the Commission's budget request for fiscal year 1967 which was approved on November 8, 1966 under Public Law 89-797.

Pursuant to authority granted under Title I of the International Claims Settlement Act, the Commission caused to be published in the Federal Register under date of January 14, 1967, a notice pertaining to the filing period for claims under the Yugoslav Agreement of 1964. This period began on January 15, 1967, and ends on July 15, 1967. Although no announcement has been made, the Commission expects to complete the program by July 15, 1969.

CONCLUSION

The cost of administering the proposals will be borne by the claims fund concerned and not the United States Government.

The bill contains items essential to the orderly administration of the proposed Bulgarian, Rumanian, Italian and Yugoslav claims programs. Moreover, the

Commission cannot proceed with the Bulgarian, Italian and Rumanian programs unless the items pertaining to them are enacted. The Governments of Bulgaria and Rumania have completed their payment commitments under the respective agreements. The Government of Yugoslavia has thus far made two payments of \$700,000 each on the scheduled date of payment. Three more payments are due. The residual amount in the Italian Claims Fund is already available for distribution to eligible claimants pending enactment of the bill.

For the foregoing reasons the Commission urges early and favorable action on H.R. 9063.

Mrs. KELLY. My first question relates to the provision of H.R. 9063 dealing with legal fees. In this proposal, you are simply ratifying the procedures that you have been following up until now. Is that correct?

Mr. RE. That is correct. There is nothing new in what is being recommended today.

Mrs. KELLY. Do you really need this legislation in order to transfer the money which our Government has received or will receive from Rumania, Bulgaria, and Yugoslavia into those respective claims funds?

Mr. RE. Yes, we do.

Mrs. KELLY. Why isn't this additional money being given to claimants who did not receive 100 percent payment on their awards under the earlier claims programs?

Mr. RE. The purpose of the legislation is to permit us to deposit this money into the new claims funds and to take care of claims that arose since the date of the program that was administered by the Commission previously.

In other words, these would be for claims that arose subsequent to the prior program.

Mrs. KELLY. I want you to enlarge upon that in order to make your position very, very clear.

Why must we accept a new class of claimants, those whose claims have arisen since 1955? I am still directing my question to the Rumanian, Bulgarian, and Yugoslav claims programs.

Mr. RE. The simple answer to that, Madam Chairman, is that this is part of the agreement. This is how we obtained the additional funds from these countries.

Mrs. KELLY. Now insofar as the Italian program is concerned, is there any objection on your part to the transfer of the \$1 million remaining in the Italian claims fund to the war claims fund?

Mr. RE. The proposal is that whatever moneys may remain, after the disposition of the claims that will be adjudicated pursuant to this morning's proposal, will go into the war claims fund. We believe that this is a worthy class of claimants that ought to be compensated first from this particular fund.

Mrs. KELLY. You anticipate that there will be money left over?

Mr. RE. Yes, I think so.

Mrs. KELLY. And you anticipate, then, that the new claimants will also receive 100 percent on the dollar as did the earlier Italian claimants? You are sure of that?

Mr. RE. If there is to be anything left over, that means that of necessity this present group will have received 100 cents on the dollar.

The reason this problem arises is because there was no requirement in the Lombardo agreement that any unexpended sum would revert

to Italy. We therefore find ourselves in the happy situation of having \$1,088,000 left over.

Mr. MONAGAN. Why don't we appropriate that; that is what you are suggesting, isn't it?

Mrs. KELLY. I'm sorry. What was that question, John?

Mr. MONAGAN. He said we are in the happy position of having these funds, and I say why don't we just appropriate them.

Mrs. KELLY. We are not appropriating any funds. The funds are there.

Mr. MONAGAN. I don't mean in the sense of technical appropriation, but I mean use them.

Mrs. KELLY. Don't you plan to use those funds in that regard?

Mr. RE. We plan to make awards to a worthy category of claims and their awards will be paid out of this fund.

Mr. MONAGAN. If you are authorized to do it by this legislation.

Mr. RE. Yes. That is why we are asking for this legislation.

Mrs. KELLY. What I asked originally was whether Dr. Re had any objection to the transfer of the money remaining in the Italian claims fund to the war claims fund.

As I understand his answer, he would object to this procedure because he feels that there are worthy claimants that should receive those funds. He would pay them first and then take what will be remaining and put it into the war claims fund.

Mr. RE. Yes.

Mrs. KELLY. With regard to the Polish claims program, this activity was terminated a year ago. Is that correct?

Mr. RE. Yes; on March 31, 1966.

Mrs. KELLY. The changes which this legislation proposes with respect to the Polish claims program are simply technical and conforming in nature; are they not?

Mr. RE. The present bill differs from the prior bill because there is no longer any requirement to do anything about the Polish program, since that has already been completed.

Mrs. KELLY. I will follow that up in a moment.

This legislation, as I understand it, does not then reopen the Polish claims program and permit the filing of new claims?

Mr. RE. It does not.

Mrs. KELLY. What position would your Commission take regarding a proposal to reopen the Polish claims program?

Mr. RE. Well, there is no money that would justify that. The agreement with Poland is still the old agreement of 1960, which provides, as you will recall, for the payment of \$40 million in 20 annual installments, and we have administered that program. That program, as I say, terminated on March 31, 1966.

Mrs. KELLY. Then you are going to have more money to distribute to Polish claimants?

Mr. RE. That is correct.

Mrs. KELLY. As the money comes in?

Mr. RE. As the money comes in, but the sum still remains \$40 million. There are no new funds in addition to that.

Mrs. KELLY. But there will be \$40 million; is that correct?

Mr. RE. At the completion of the 20th annual payment by Poland, the fund will be \$40 million. I think we have so far received \$14 million. They have made seven payments, Madam Chairman.

Mrs. KELLY. Then as this money comes in, you would plan to pay those claimants who received awards. Is that correct?

Mr. RE. Well, let me put it this way: Those funds are really distributed by the Treasury Department pursuant to the priority of payments set forth in the International Claims Settlement Act.

Our task with respect to the Polish program is over. We have adjudicated approximately 11,000 claims. Total awards exceeded \$100 million, and as I say, our adjudicatory function in the Polish program is over.

Mrs. KELLY. Well, who would have the authority, then, to distribute the money as it comes in?

Mr. RE. That is the responsibility of the Treasury Department, and they are doing that.

Mrs. KELLY. But they are going to give that money only to those claimants who already qualified?

Mr. RE. Oh, yes; absolutely.

Mrs. KELLY. Why are you cutting off those who could have qualified had they had additional time to establish their qualification?

Mr. RE. I don't know what you mean by "cutting off."

Mrs. KELLY. You say there were 11,000 original claimants. Of these, you made awards to about 6,000, did you not?

Mr. RE. Of those who originally filed? It is true that invariably the denial percentage is about half. In other words, you are absolutely right. Roughly half of them receive awards, and roughly half are denials. But this is something that applies in all of these claims programs.

Mrs. KELLY. Of the half whose claims were denied, how many of these would you guess could qualify if they had additional time to prove their cases? That is what I would like to know.

Mr. RE. Mrs. Kelly, that also raises a very serious question: A person who does not succeed in proving his claim will invariably say that if he had more time he might have obtained evidence.

This is not the proper way to run a commission such as ours, because it would mean that we would never terminate our programs. This would not be in the public interest.

An important aspect of the Commission, and in this I think that I would be justified in making what might be called a self-serving statement, is that we have never asked for an extension of time for any of our programs.

The Congress tells us to start a program at a given date, and we are told when to terminate that program. This is precisely what we have done in all cases.

In other words, from the filing date to the date of termination all claimants have the same opportunity.

It is true that some claims are denied because of failure of proof. We do the best we can in assisting claimants in obtaining evidence, but they must bear the burden of proof.

Mrs. KELLY. The same happened, then, in the case of claimants against other countries?

Mr. RE. Absolutely, Madam Chairman.

Mrs. KELLY. The other country programs were closed off.

Mr. RE. This is true of Czechoslovakia and all the other countries. I have no doubt that some claims were denied because of the claimants' inability to obtain evidence.

Mrs. KELLY. How much time did the claimants have to prove their claims under the Polish claims program?

Mr. RE. From 1960 to March 31, 1966. This is really longer than most other programs.

Mrs. KELLY. Could you tell us at this point how much time was given to the other claimants?

You can submit it for the record.

Mr. RE. We will be happy to do so.

(The information referred to follows:)

- A. Yugoslav: June 30, 1951–December 31, 1954.
- B. Panamanian: June 30, 1951–December 31, 1954.
- C. Bulgarian: September 30, 1955–August 9, 1959.
- D. Hungarian: September 30, 1955–August 9, 1959.
- E. Rumanian: September 30, 1955–August 9, 1959.
- F. Italian: September 30, 1955–May 31, 1960.
- G. Soviet: September 30, 1955–August 9, 1959.
- H. Czechoslovakian: September 15, 1958–September 15, 1962.
- I. Polish: July 16, 1960–March 31, 1966.

Mrs. KELLY. Mr. Frelinghuysen?

Mr. FRELINGHUYSEN. Thank you.

I am not sure why this bill has the special provision for the Italian claimants. Why do we need to extend these benefits to them?

Haven't they had long enough to file their claims?

Mr. RE. Yes, they have. The reason why the problem arises, sir, is because—

Mr. FRELINGHUYSEN. You probably have already covered this, and I apologize for coming in late.

Mr. RE. That's all right, sir.

The best answer is found in the prepared statement which I submitted. It tells precisely why we are requesting this legislation.

As I said, we have \$1,088,000 left over in the Italian claims fund.

Mr. FRELINGHUYSEN. But that doesn't necessarily burn a hole in your pocket, I shouldn't think.

Mr. RE. No. It does mean however that if there is a worthy category of claimants who have a claim to that fund, they ought to be considered. And there is a worthy category. You take, for instance, the Dodecanese situation, where American nationals had property there—they simply were forgotten, and have not had an opportunity to present their claims.

What we are proposing is that we adjudicate their claims and permit the awards to be paid out of this fund.

I would be very happy to—

Mr. FRELINGHUYSEN. You are referring to your statement on page 8, the big paragraph on page 8. I am wondering about the paragraph prior to that. It says:

The bill * * * would reopen and extend the Italian claims program to cover claims * * * not previously compensable because of late filing * * *

Mr. RE. That is correct.

Mr. FRELINGHUYSEN. Why are we giving them the advantage of coming in at this point? Haven't they had long enough?

Mr. RE. It is true that we recommended that the late filers in the Italian program—

Mr. FRELINGHUYSEN. My question is why. The general provisions of international law would not allow this kind of exception. I am

not sure why, since you have a million dollars in your pocket, you have to find eligible claimants for it.

I can understand the Dodecanese situation, but that is something different. I don't see why the Italians have a special break.

Mr. RE. There is no question of Italians here.

Mr. FRELINGHUYSEN. I mean with respect to claims in Italy.

Mr. RE. They are American nationals.

Mr. FRELINGHUYSEN. I understand.

Mr. RE. I would have to agree with you, sir, if we didn't have money left over. It isn't a question of money burning in somebody's pocket. The question is: Are we going to permit the late filed claims to be adjudicated.

Mr. FRELINGHUYSEN. My question is: Why should we? This bill would allow it. It isn't necessarily a hostile question, but I would like to know why.

Mr. RE. It is a matter of policy. We say that if a person has a valid claim, and that claim has not been adjudicated solely because of late filing, and there is money left over——

Mr. FRELINGHUYSEN. But you were the one who was critical of the late filers. You said if you extend a deadline there are always going to be people who are going to take advantage of it.

Mr. RE. There is a vast difference in a situation where we have made awards in excess of \$100 million, and after all payments are made we will only have \$40 million, as distinguished from a situation where everybody has gotten 100 cents on the dollar and there is money left over. I would say the late filers in these two situations are not in the same position.

Mr. FRELINGHUYSEN. If you read the proceedings in the record——

Mrs. KELLY. Mr. Frelinghuysen, I wonder if you would allow Mr. Selden to ask a question at this point? He has another meeting to attend in a few minutes.

Mr. SELDEN. I wanted to ask this question. Is there a difference in this bill and the bill that this subcommittee reported out last year?

Mr. RE. This bill makes no reference at all to the Polish situation.

Mr. SELDEN. Why?

Mr. RE. Because that program has already been terminated by the Commission as of March 31, 1966. That problem is no longer before us and is no longer vital.

Mr. SELDEN. Was it in last year's bill?

Mr. RE. Yes, it was.

Mr. SELDEN. Why? The program had expired prior to the passage of that bill by this subcommittee?

Mr. RE. It had not expired prior to the introduction of the bill.

Mr. SELDEN. You said it expired March 31, 1966, and we didn't report that bill out until August, as I remember.

Mr. RE. As of the time the bill was introduced, the problem was not moot. It became moot because of the passage of time.

Mr. SELDEN. Did you state that to the committee last year when we were having hearings on it?

Mr. RE. We didn't ask for the extension of that program. Last year when Mr. McGuire testified on my behalf, we indicated that we did not favor reopening, or extension of the program, although some people did wish that the program be extended.

Mrs. KELLY. I would like to clarify this point. Last year, we received in our committee a bill already passed by the Senate. It was that bill that we took up, and it contained some amendments added in the Senate. Those amendments had been passed and accepted by the Senate prior to the closing of the Polish claims program.

Mr. SELDEN. Has your Commission always favored the inclusion of the Italian claims in this legislation?

Mr. RE. No.

Mr. SELDEN. Why have you changed your position?

Mr. RE. We feel that the basic policy position on the inclusion of the late filers was really made by the Congress when title III was passed on August 8, 1958. It was at that time that the Congress, as a matter of legislative policy, amended the law to permit a new category to come in because it was then apparent that the fund would have been greater than needed.

So, frankly, I don't believe that we are urging something new today. All we are doing is really adhering to the policy that was already established by the Congress in 1958.

Mr. SELDEN. Haven't you been before this committee prior to this time urging the extension of the Italian claims?

Mr. RE. No, sir. This is the first time that we are urging that this be done.

Mr. SELDEN. That is not my recollection.

Mr. RE. It is true that a bill had been submitted at one time that had recommended that the remaining funds go into the War Claims Fund. That is true.

Mr. SELDEN. You had recommended that? Is that correct?

Mr. RE. The Commission did.

Mr. SELDEN. What year was that?

Mr. RE. In the 87th and 88th Congresses.

Mr. SELDEN. Was that prior to 1958?

Mr. RE. No, it was after.

Mr. SELDEN. Then your position has changed?

Mr. RE. Yes, it has.

Mr. SELDEN. Then why has it changed?

Mr. RE. Because we believe that the position we are urging today is more consistent with the policy of the Congress enunciated in the 1958 legislation.

Mr. SELDEN. Yes, but you have been before this committee since 1958 and urged another approach. Why has there been a reversal of your position?

Mr. RE. Congressman Selden, I think there are benefits which result from reflection and thought. We really believe that what we are urging today is a more equitable solution pertaining to the distribution of these funds.

Mr. SELDEN. Then you are saying that you have changed your position since the last bill that was introduced in connection with the Italian claims.

Mr. RE. That's correct.

Mr. SELDEN. Since 1958 you have had two different positions. Am I correct?

Mr. RE. That is correct.

Mr. SELDEN. Thank you, sir.

Mrs. KELLY. Mr. Derwinski, do you wish to question at this time?

Mr. DERWINSKI. No. I yield to Mr. Taft.

Mr. TAFT. Madam Chairman, I would like to yield at this time and perhaps come back later.

Mrs. KELLY. Mr. Monagan?

Mr. MONAGAN. Thank you, Madam Chairman.

This is complicated legislation, and I have not been able to get into it to the degree that we were involved in it last year, so I hope you will bear that in mind as I ask these questions.

We got a State Department position on this last year. Do we have one this year?

Mrs. KELLY. I would assume that the State Department's position is the same as the executive branch position on this bill.

Mr. MONAGAN. I don't know whether it is or not.

Mr. RE. That is correct.

Mrs. KELLY. If I remember correctly, last year, and I will have to look up the testimony on this, you were not adamant in desiring the reopening of the Italian claims program.

You left that matter to us for our decision.

Is that correct, that in the testimony before us, you left it with the Congress to decide whether we should reopen that program?

Mr. RE. The matter is entirely one of congressional policy.

Mrs. KELLY. But in this bill, this is the State Department's policy?

Mr. RE. This is an executive branch bill.

Mr. MONAGAN. We can do whatever we want with it, but I am asking whether we have been furnished with a position paper by the State Department on this bill. Apparently we don't have any.

Mrs. KELLY. Do you wish us to request it, then, Mr. Monagan?

Mr. MONAGAN. It should be in the record here some place if we are going to discuss it at this time.

(The information follows:)

DEPARTMENT OF STATE,
Washington, D.C., June 27, 1967.

HON. THOMAS E. MORGAN,
Chairman, Committee on Foreign Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your letter of May 29, 1967, requesting the views of the Department of State on H.R. 9063, "To amend the International Claims Settlement Act of 1949, as amended, to provide for the timely determination of certain claims of American nationals, and for other purposes."

H.R. 9063 would provide for the disposition of funds received under the claims settlement agreements concluded with the Governments of Bulgaria and Romania. It further provides for the determination of claims against Bulgaria and Romania for the taking of property between August 9, 1955 and the effective date of the respective claims agreements with those countries. The bill also permits the reopening of the Italian claims program in order to pay certain claims not previously consideration compensable. And finally, the proposed legislation would provide for certain administrative changes to enable the Foreign Claims Settlement Commission to proceed in an orderly administration of its program.

Except for the omission of certain provisions relating to the Polish and Yugoslav claims programs of the Foreign Claims Settlement Commission which are no longer required, the bill conforms to the proposal which the Commission submitted to the 89th Congress. The Department of State accordingly favors the proposed legislation.

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.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,
Assistant Secretary for Congressional Relations.

Mr. MONAGAN. Now what is the status of the Administrative Procedure Act? When Mr. McGuire testified last year, that was under consideration. I should know the answer, but I don't. I am referring to the 10-percent attorney's fee.

**STATEMENT OF ANDREW T. MCGUIRE, GENERAL COUNSEL,
FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED
STATES**

Mr. MCGUIRE. It is still in the same status it was in last year. Nothing has been done.

Mr. MONAGAN. Nothing has been done on that. I just have the reservations that I think I expressed then about any arbitrary limit to fees in an instance like that. I think some of them in relation to services are very unrealistic in various areas of the Government, and I merely express that opinion now.

Now with reference to the Italian claims program, there is a million dollars in the fund.

Mr. RE. That is correct. One million eighty-eight thousand dollars, sir.

Mr. MONAGAN. I believe last year what we did was turn this over—that is, the subcommittee voted to turn this over to the war claims fund. Is that correct?

Mr. RE. I don't recall that.

Mrs. KELLY. That is correct.

Mr. MONAGAN. Assume we did, what would be the objection to doing that, on your part?

Mr. RE. Well, I believe that surely with respect to these Americans who suffered losses in the Dodecanese Islands, it would be an unwarranted infliction of harm. They have been totally excluded.

Mr. MONAGAN. They haven't been excluded. They just didn't qualify. Isn't that right? Any statute of limitations works the same way.

Mr. RE. They didn't come under the peace treaty, or under the existing programs of the Commission. They received no compensation at all.

Mr. MONAGAN. Are they American citizens?

Mr. RE. Yes.

Mr. MONAGAN. Are they naturalized?

Mr. RE. Yes.

Mr. TAFT. Would the gentleman yield?

Mr. MONAGAN. Yes.

Mr. TAFT. I wonder, if this is true, why should they not take a priority over those who have been late in filing in other areas?

Mrs. KELLY. Can you rephrase that question, Mr. Taft?

Mr. TAFT. If that is true, why should they not have a priority over the late filers?

Mr. RE. As a practical matter, Congressman Taft, not only would they be taken care of, but there may very well be money left over after the entire category is adjudicated.

For this reason this bill also provides that after the late filers and this new group pertaining to the Dodecanese Islands——

Mr. TAFT. That doesn't answer my question. My question is, Why shouldn't you pay them first and then go on and pay the late filers and then pay them in full?

Mr. RE. Congressman Taft, these are all matters of policy. I fully appreciate the question and the view.

Mr. MONAGAN. Have you any estimate of what the amount of the claims of the Dodecanese people would be?

Mr. McGUIRE. The amount of the claims? No.

Mr. RE. We know the number. There are roughly 238—somewhat over 200 claims.

Mr. MONAGAN. Are those for property damage?

Mr. RE. Yes, sir.

Mr. MONAGAN. There is no way on the basis of your experience in other cases that you could estimate?

Mr. RE. We only know claimed amounts, and claimed amounts are most unreliable.

Mr. MONAGAN. I understand that claim amounts would be high, but I mean on the basis of what your adjudications have been, could you arrive at an estimate of award amounts?

Mr. RE. No, I am afraid that would be a meaningful guess, but I would be happy to supply more information for the record.

(The information concerning claims arising in the Dodecanese Islands follows:)

1. It has been estimated that claims in this category will not exceed 500 in number. The Commission knows of 238 claims which have been denied in prior programs on the ground of ineligibility.

2. The claimed amount in the claims denied was \$5,805,976. However, it has been the Commission's experience that such assertions are tremendously inflated.

3. It is believed that the majority of these persons were United States nationals on September 3, 1943, the date of Italian capitulation. Generally, they acquired citizenship shortly after World War I.

Mr. MONAGAN. The war claims fund is broke, in essence, is it not? Do you know that?

Mr. RE. Oh, no; the war claims fund will be somewhat in excess of \$250 million, and from that fund will be paid the awards on our war claims program that terminated on May 17 of this year.

Mr. MONAGAN. Are there sufficient funds to cover the claims?

Mr. RE. No. Our awards were closer to \$340 million and the fund, as I have indicated, is perhaps in excess of \$250 million.

Mr. MONAGAN. When I used the word "broke," I perhaps suggested that there were no funds in it.

What I meant to suggest is that there are not sufficient funds in it—

Mr. RE. Not for payments of 100 cents on the dollar.

Mr. MONAGAN (continuing). To pay the claims, and if this money were put in, it would increase the percentage.

Mr. RE. It would increase the fund by \$1,088,000.

We are back to the policy question, as to who should have a claim to this fund, considering its source. The source happens to be the Lombardo Agreement with Italy, which had in mind claims originating against Italy for which the treaty of peace with Italy made no provision. So you see, upon reflection, it doesn't seem conscionable to say, "Put it into some other fund."

We have the power to do that, and the Congress may do so, of course, in its wisdom.

Mr. MONAGAN. What power do we have—

Mr. RE. We could do anything we want with the money because the treaty with Italy does not have a reverter clause.

Mr. MONAGAN. Could we put it in the general fund?

Mr. RE. Yes.

Mr. MONAGAN. Maybe those long-suffering taxpayers ought to be the beneficiaries, Mr. Taft?

Mr. TAFT. It could well be.

Mr. MONAGAN. In the cases of Yugoslavia, Bulgaria, and Rumania, there are either new payments or new agreements, so there doesn't seem to be too much controversy in that connection.

When you say "all the expenses" are borne by the funds, is that all the expenses of the Commission?

Mr. RE. That's correct, and those of the Treasury Department. Not one dollar is required from the U.S. taxpayers to administer any of these programs.

Mr. MONAGAN. Does the Commission require any appropriated funds for its operations?

Mr. RE. Yes, we do, but not in connection with these programs. A more accurate explanation would be that we do receive appropriated funds, but the source of the funds we receive is not taxpayer money.

Mr. MONAGAN. You are saying that the Commission doesn't have any net cost to the Government?

Mr. RE. In effect, that is absolutely true.

Mr. MONAGAN. Were some of those not of the Dodecanese who would be qualifying under the Italian fund not citizens, at the time?

Mr. RE. Yes, but they were nationals at the time of the enactment of title III on August 9, 1955. This is the principle of liberality that the Congress established on August 8, 1958.

Mr. MONAGAN. But there is a question of international law involved there.

Mr. RE. There is.

Mr. MONAGAN. We discussed that last year, and I merely wanted to put that issue into this record as well.

Mr. RE. Yes, you did. I read your testimony on that, Congressman Monagan.

My only observation this morning is that there would be nothing new in what we are proposing today, because all we are asking is that we do what we have already done under the August 8, 1958, legislation.

We are not asking for an extension of that precedent.

Mr. MONAGAN. I don't think I have any further questions at this time, Madam Chairman.

Mrs. KELLY. I would like to clarify one issue.

The Commission cannot proceed with the administration of the Rumanian and Bulgarian claims unless this bill is enacted. Is that correct?

Mr. RE. That is correct.

Mrs. KELLY. And under the agreement with those governments, the money is already there or being paid?

Mr. RE. It has already been paid.

Mrs. KELLY. Under the present agreement, Yugoslavia will be paid up in 1970. Is that correct?

Mr. RE. Absolutely correct.

Mrs. KELLY. So that with respect to these three countries it would be most unfair not to distribute the money at this point. Is that true?

Mr. RE. We would require this legislation

Mrs. KELLY. That is what I understood.

Mr. Derwinski, are you ready to question at this point?

Mr. DERWINSKI. Madam Chairman, I have been reviewing our hearings of last year, and I don't think we are exploring new territory but, I hope, we are effectively rehashing.

I have no questions at this time.

Mrs. KELLY. Mr. Hamilton.

Mr. HAMILTON. Just one question, Madam Chairman.

On the attorney fee commission, is it the custom of the Commission to give a flat 10 percent in all cases to attorneys?

Mr. RE. We are asking that we be relieved of the responsibility of establishing them. We would like to leave it entirely to the attorney-client relationship.

Mr. HAMILTON. What is your habit now at the Commission?

Mr. RE. That is our present practice, but we would like to have the statute that is before us this morning amended to make it uniform with the other statutes we administer.

Mr. HAMILTON. What would be the practical effect of that, sir?

Mr. RE. It would mean that we would not wish to have the responsibility of setting the attorney's fee and having the Treasury Department deduct the fee. We would prefer to have that handled strictly between the client and the attorney.

Mr. HAMILTON. Is the practical effect going to be that the claimant himself gets a less amount, and the attorney gets more?

Mr. RE. No, because there is still a 10-percent limitation.

Mr. HAMILTON. You do in effect set the attorney's fee?

Mr. RE. We don't set it. It is set by the statute. We want to be relieved of the responsibility of setting it within the 10-percent limit. We can set it at a lower percentage under the particular statute. We want to be relieved of that responsibility.

Mr. DERWINSKI. Would the gentleman yield?

Mr. HAMILTON. Yes.

Mr. DERWINSKI. To be relieved of responsibility, to use your words, sir, means that the maximum and minimum attorney fee will henceforth be 10 percent?

Mr. RE. If that is the agreement that is entered into between the attorney—

Mr. DERWINSKI. My point is that in lieu of any statement on your part of a lesser legal fee, I would assume that the standard, and therefore the only legal fee involved, would be 10 percent?

Mr. RE. If I may be permitted an observation on the question of attorneys' fees, I think there is perhaps a misunderstanding on the part of the public, on the attorney fee provisions.

To have a low attorney fee provision does not always help the claimant. It sometimes means that the small claimant is deprived of counsel.

The big claimant doesn't require the protection of the statute. The little claimant, because of what ostensibly seems to be a protection, is sometimes deprived of counsel.

This raises a broader question. I don't want to get into that.

Mr. HAMILTON. I want to understand the situation. Under the present law you have the burden of setting the attorneys' fee?

Mr. RE. Within the 10-percent limitation.

Mr. HAMILTON. It can be less but not more than 10 percent?

Mr. RE. Yes.

Mr. HAMILTON. What is your practice at this moment?

Mr. RE. We have not exercised that responsibility as a practical matter.

Mr. HAMILTON. What do you do?

Mr. RE. We permit the claimant to pay the 10 percent allowed by the statute. The only way we play a part is if we receive a complaint that more is being asked.

Mr. HAMILTON. So the effect is that attorneys' fees are 10 percent?

Mr. RE. I can't say that from knowledge, but I would say that is a fair inference in smaller claims.

In a large claim, where documents establish the claim easily, 10 percent may be too much.

But in a small claim, where there is a great deal of work to be done, particularly in obtaining evidence, I think it is fair to say that 10 percent is probably the usual attorney fee that is charged.

Mr. HAMILTON. Under the present legislation, you have the burden of determining the attorney fee, and you don't do it?

Mr. RE. That is correct.

Mr. HAMILTON. What is your proposal?

Mr. RE. The proposal is that the statute permit the 10 percent and require no further action on the part of the Commission.

Mr. HAMILTON. So it would be automatic so far as you are concerned?

Mr. RE. As a practical matter, you are probably right.

Mr. MONAGAN. Do you know what the fees are at the present time?

Mr. RE. We do not.

Mr. MONAGAN. And unless somebody made a complaint, you would not know?

Mr. RE. That is correct. We do get an occasional complaint, and we take appropriate action. We have had a few convictions when the provisions of the statute were violated.

Mr. HAMILTON. You have had convictions of attorneys who charged more than 10 percent?

Mr. RE. If they violated the statute, yes.

Mr. HAMILTON. How many convictions have you had?

Mr. McGUIRE. We had one man involved in six or seven cases in the Greater Boston area.

Mr. HAMILTON. Could you advise us for the record, please, how many complaints you have had, and how many convictions you have had under the law?

Mr. RE. Yes, sir.

(The information referred to follows:)

STATEMENT CONCERNING CONVICTIONS OF REPRESENTATIVES OF CLAIMANTS
FOR ASSESSING FEES IN EXCESS OF THE 10 PERCENT LIMITATION

The Commission records reflect that one Charles C. Fourkas, Worcester, Massachusetts, was convicted on eleven counts for such violations (cf. attachment). This is the only case in which the Commission initiated the action with the Attorney General. All other instances arose upon complaint by aggrieved awardees who were advised by the Commission to consult the nearest U.S. Attorney. As a result, records of these actions were incorporated in the respective claim files and the Commission has no means of tracing them.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., August 15, 1960.

Re Charles C. Fourkas.

Mr. ANDREW T. McGUIRE,
*General Counsel, Foreign Claims Settlement Commission of the United States,
Washington D.C.*

DEAR Mr. McGUIRE: Reference is made to our letter of March 5, 1959, in the above matter.

On May 23, 1960, an indictment in eleven counts was returned in Boston, Massachusetts, charging subject Charles C. Fourkas with violations of 22 U.S.C. 1641(p). On July 19, 1960, subject was sentenced to pay a fine of \$250 and placed on probation for one year, conditioned upon restitution within that period.

In view of the foregoing, our file has been closed.

Sincerely,

MALCOLM RICHARD WILKEY,
Assistant Attorney General Criminal Division.
By NATHANIEL E. KOSSACK,
Chief, Fraud Section.

Mr. HAMILTON. I think that is all, Madam Chairman.

Mrs. KELLY. Mr. Taft, do you have any questions?

Mr. TAFT. I do have some questions. I am not familiar with the background of this, just having come on this subcommittee.

Do I understand that there is some provision in this bill relating to Yugoslav claims?

Mr. RE. Yes.

Mr. TAFT. What portion of the bill is that? I can't seem to locate it here. That is the reason I asked. There is a reference, I might say, in the background information that has been submitted to the 1964 Yugoslav agreement, or any similar agreement that may be concluded in the future.

Mr. RE. That is the language that pertains to Yugoslavia. In effect what we are doing—

Mr. TAFT. I am looking for it in the bill. Is that in the bill?

Mrs. KELLY. Would you please repeat your question, Mr. Taft?

Mr. TAFT. I am trying to locate in the bill the specific provisions relating to Yugoslavia, Madam Chairman.

Mrs. KELLY. Thank you.

There is in front of you a prepared section-by-section analysis of H.R. 9063. Do you have that, Mr. Taft?

Mr. TAFT. I haven't gotten to that yet.

Mrs. KELLY. It shows reference to Yugoslavia on the second page, paragraph 5 of the bill, in the center of the third paragraph.

Mr. RE. You will find it in paragraph 2 of our section analysis. It pertains to composition of funds.

Mrs. KELLY. Title III?

Mr. RE. It is similar to title III, and section 402(E).

Mrs. KELLY. Well, paragraph 4 of subsection (c) on page 3 of the bill is directed especially to Yugoslavia, I think, and Poland.

Mr. RE. You see, this amends the existing statute, and permits covering into the existing fund the new amount that has been obtained and will be obtained pursuant to the agreement of November 5, 1964.

Mrs. KELLY. It goes throughout the entire bill, doesn't it?

Mr. RE. It does. It isn't a separate provision dealing with Yugoslavia. It merely amends the existing law so as to permit covering into the existing Yugoslav fund the new money.

Mrs. KELLY. Let me establish one other point, Mr Taft. Were all the small claims up to \$1,000 adjudicated and paid?

Mr. RE. In the Yugoslav program?

Mrs. KELLY. Yes.

Mr. RE. All of them were adjudicated.

Mrs. KELLY. Do you want to proceed, Mr. Taft?

Mr. TAFT. Yes; I will proceed, Madam Chairman.

The reason I have asked this question, Mr. Re, is that I wondered why we should include under the authority given here any agreement that may be included in the future. I can't quite see what—it seems to me we are buying a pig in a poke if we go along with future agreements the terms of which we cannot anticipate, particularly with regard to—

Mr. RE. The reason for that is that similar agreements are in contemplation with other countries, such as Czechoslovakia, and the statute would authorize us to have the new money added to the existing fund.

In other words, with this authority, the money could be added to the existing fund without coming back for additional authority.

Mr. TAFT. It could cover other countries which expropriate American property; is that right?

Mr. RE. Yes. Specifically Czechoslovakia and Hungary come to mind.

Mrs. KELLY. Let's establish that we are not considering Czechoslovakia in this bill, because an agreement has not been reached between us and the Czechoslovakian Government, so you are saying that when you have an agreement with Czechoslovakia, this would fall in line, or any other country?

Mr. RE. It would permit adding new money to the existing fund, that is, any money that may be obtained pursuant to another agreement.

Mrs. KELLY. You are at this time directing your remarks to Czechoslovakia?

Mr. RE. That is a country that came to my mind, but this present bill does not pertain to Czechoslovakia.

This bill pertains to Yugoslavia, Bulgaria, and Rumania.

Mr. TAFT. Again the summary states that on March 30, 1950, Rumania agreed to pay the United States \$2.5 million as total final settlement.

Then I understand later that it is indicated in this summary that new claims which have arisen since August 1, 1955, would be received and awards on such claims paid to the extent of approximately 30 percent of the principal, which I gather is the amount that has been paid on pending claims.

Mr. RE. That's correct.

Mr. TAFT. Could these claims arise after 1960?

Mr. RE. No, sir. Claims arising before August 9, 1955, are already adjudicated, so the purpose of the legislation is to take care of claims between August 9, 1955, and March 30, 1960, which is the date of the agreement.

Mr. TAFT. They couldn't arise after that under the statute?

Mr. RE. No, not under the agreement.

Mr. TAFT. What was the basis of the \$400,000 final settlement by Bulgaria?

Mr. RE. That was the agreement entered into.

Mr. TAFT. Was this to cover expropriated property after the war, or was it to cover war damage?

Mr. RE. Well, the answer to your question would have to be "both." How it was entered into is a matter of negotiation.

Mr. TAFT. It wasn't specified that this was for before or after?

Mr. RE. I don't believe so.

Mr. TAFT. Thank you, Madam Chairman.

Mrs. KELLY. Let me ask a question. The money that has been paid out before the recent agreements was money from assets which we seized or took. Is that correct?

Mr. RE. That is correct.

Mrs. KELLY. Then under the agreement, additional funds were added to that, and that is why you have the different dates; right?

Mr. RE. That is exactly correct.

Mrs. KELLY. On the claims previously adjudicated, was not up to \$1,000 paid to small claimants? That is what I tried to establish before.

Mr. RE. Yes; they were.

Mrs. KELLY. Thank you.

Mr. Culver.

Mr. CULVER. No questions at this time.

Mrs. KELLY. Mr. Derwinski.

Mr. DERWINSKI. I have further reviewed our testimony last year, and I note we had a long series of questions with Mr. McGuire, and I want to pursue that.

Mr. McGuire, one of your basic arguments in opposing opening up the Polish claims is that there aren't enough funds to handle present claims, whereas you do cite in your figures for us that you contemplate that in the Italian claims program there may be surplus funds. I should point out for Mr. McGuire's benefit that we made quite clear a year ago that he wasn't responsible for negotiating the dollars coming from these countries, so he can't be responsible that we were in effect swindled by the Polish Government, and therefore we can't be as fair to Polish claimants.

That would seem to be the case a year ago. Is that still the case?

Mr. MCGUIRE. That is still the case, Mr. Derwinski. The Commission adjudicated the Polish claims and issued awards in excess of \$100 million to be prorated against the \$40 million fund.

Mr. DERWINSKI. Then there is also a \$50 million interest factor if my records are correct.

Mr. RE. You are correct; \$51 million.

Mr. DERWINSKI. The \$40 million being a frozen figure?

Mr. RE. Yes; to be paid over a 20-year period.

Mr. DERWINSKI. Maybe we ought to see if Mr. Gronouski could use his influence and open up the payments for negotiation, but I realize that isn't your jurisdiction.

But it would seem to me, then, that there is an inconsistency here.

In other words, I recognize the financial facts of life, but there seems to be an inconsistency in attempting to adjust claims to the cooperation through various countries.

I don't think that is fair to the individual claimant, is it?

Mr. MCGUIRE. I think, as Dr. Re indicated earlier in his testimony, he is looking at the Italian claims fund as money that has been ob-

tained from the Italian Government, and that it should be slanted toward people who suffered at the hands of the Italians.

Mr. DERWINSKI. I am not questioning that. I am merely questioning the fact that the claimant who suffered, say, in Poland, is not going to be able to receive the same proportion of compensation as the ones who suffered in Italy, merely because of the proportions of dollars involved, and the Polish Government hasn't been as fair, or we couldn't squeeze as much out of them.

Mr. McGUIRE. I think we have to take the position of the negotiators in relation to these various agreements. We have to understand that in relation to the agreements with Italy and Poland, the negotiators did not at that time know the extent of the losses incurred by Americans.

On the other hand, in our present Cuban and Communist Chinese program, we are adjudicating these claims prior to settlement so that when the time comes for negotiations the negotiators will know what the liquidated damages are.

Mr. DERWINSKI. But you also told us a year ago that one of the problems in dealing with the Polish authorities was that they raised some difficulties in the ability of the claimant to obtain needed documentation.

Mr. McGUIRE. That question did not come up. However, the Commission did maintain a field office in Poland, and we had excellent cooperation from the Polish Government.

I think that the negotiators' problem in relation to any of these countries with which they negotiate, one of the biggest problems, is the ability of that government to pay; that is, the dollars available to that government to make these payments.

Mr. MONAGAN. That is not before us now.

Mr. RE. That is not before the subcommittee this morning.

Mr. DERWINSKI. I just happened to check Mr. McGuire's testimony of a year ago, and I see we didn't answer all the questions then, and we are at the same dead end this morning, which is no fault of yours.

Mr. MONAGAN. You had that in the bill then, but you don't now.

Mr. DERWINSKI. We will straighten it out.

No further questions, Madam Chairman.

Mrs. KELLY. There are several questions I would like to ask.

The 5-percent deduction from every award, and the 10-percent lawyers' fee, that applies to every award; is it not?

That is a 15-percent deduction from the award; is that correct?

Mr. RE. Well, 5 percent is deducted for administrative expenses, and the bill does permit an attorney's fee of 10 percent.

That is correct.

Mr. TAFT. Madam Chairman, would you yield at that point?

Is there still a 5-percent limitation over 20,000 on the attorney's fee in the law?

Mr. RE. No, not in this bill. It is a flat 10 percent.

Mr. TAFT. Section 512 of the law here does have a 5-percent limitation over 20,000. That doesn't apply here?

Mr. RE. You may be looking at the section which pertains to the Cuban program, sir, that is a presettlement adjudication program. There, there is no money at all. We are simply determining the validity and amount of those claims.

Mr. TAFT. That is correct, it only applies to Cuba.

Mr. RE. Yes, sir.

Mrs. KELLY. I am going to return to the Polish claims program. You have approved claims under this program in the amount of \$100 million for principal, and \$50 million interest. But over 20 years, Poland is only going to pay \$40 million; is that correct?

Mr. RE. That is correct.

Mrs. KELLY. So that the \$40 million will cover only about one-fourth of the awards of the principal and interest; is that correct?

Mr. RE. Well, the amount to be received is clear. Forty million will ultimately be available.

Mrs. KELLY. It would amount to approximately 25 cents on the dollar. Is that correct, Mr. Re?

Mr. RE. If you include the interest, that would be correct.

Mrs. KELLY. So that all of these claimants whose claims are already approved will receive only about 25 cents on the dollar under the Polish claims program?

Mr. RE. That would be the recovery when you view it that way.

Mrs. KELLY. Under the Italian claims program, the claimants received 100 percent on the dollar of their awards.

Mr. RE. Yes.

Mrs. KELLY. Have we any estimate of how much was paid under the Rumanian and Bulgarian claims programs?

Mr. RE. Yes; we do.

Mrs. KELLY. What is that?

Mr. RE. Bulgaria, 50 cents on the dollar, and 35 cents on the dollar on the Rumanian program.

Mrs. KELLY. I think that is about all I have at this point.

Do any other members have any questions? Any other questions?

Mr. TAFT. No, Madam Chairman.

Mrs. KELLY. I do want to say at this point that I received a letter from our Chairman asking us to take up this legislation, which letter I have already put into the record. But because of the questions raised by Mr. Monagan, I feel that I should read to you the following passage from the executive communication which transmitted the draft legislation. It reads:

For these reasons, the Commission urges early and favorable action on the proposed bill. The Bureau of the Budget advises that the enactment of this proposal would be consistent with the Administration's objectives.

Would that in your judgment, Dr. Re, indicate the approval of this bill by the executive branch, including the State Department?

Mr. RE. There is no question about it. This is an executive branch bill.

Mrs. KELLY. That statement is accurate?

Mr. RE. Yes.

Mrs. KELLY. The bill, as drawn up and sent to me, which I introduced at the request of the executive branch, has the approval of the administration?

Mr. RE. Correct.

Mrs. KELLY. Any other questions?

(No response.)

Mrs. KELLY. I do want to express our appreciation to you, Dr. Re, for coming here. This is a rather technical bill, and there may be other

questions that we might have, which we will submit to you for reply at the appropriate time.

Mr. RE. Thank you very much for the privilege of appearing before you.

Mrs. KELLY. Thank you, sir.

The committee stands adjourned.

(Whereupon, at 11:14 a.m., the subcommittee was adjourned subject to the call of the Chair.)

INTERNATIONAL CLAIMS SETTLEMENT ACT

TUESDAY, JUNE 27, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON EUROPE,
Washington, D.C.

The subcommittee met, pursuant to call, at 2 p.m., in room 2255, Rayburn House Office Building, Hon. Edna F. Kelly (chairman of the subcommittee) presiding.

Mrs. KELLY. The subcommittee will come to order.

We are meeting this afternoon to continue our hearings on H.R. 9063, a bill to amend the International Claims Settlement Act of 1949, as amended.

The enactment of this legislation has been requested by the executive branch in order to facilitate the settlement of claims under the Bulgarian, Rumanian, Yugoslav, Polish, and Italian claims programs.

On May 24, the subcommittee received testimony in support of this legislation from Chairman Edward D. Re of the Foreign Claims Settlement Commission.

Today the subcommittee will receive testimony from private individuals and organizations interested in H.R. 9063.

We have a fairly long list of witnesses. We shall call on them in the order in which their requests to testify were received by the subcommittee. All of the prepared statements submitted by the witnesses will be placed in the record of today's hearings in full, at the appropriate time.

Therefore, to expedite matters, I ask that each witness limit his oral presentation to not more than 5 minutes, in order that the committee members may question.

We will begin with Mr. Reiter.

STATEMENT OF ROBERT H. REITER, ATTORNEY (SPAULDING, REITER & ROSE), WASHINGTON, D.C.

Mr. REITER. There are three things that I would like to call to the attention of the subcommittee.

The first relates to the matter of Italian claims. The administration form of the bill which has been submitted would permit over \$1 million that remains in the Italian claims fund to be used first to pay the claims of persons who, although they were not citizens of the United States on the date when they lost property or property of theirs was damaged in Italy during the war, would have qualified except for that, and who become citizens sometime prior to 1955, when the legislation was actually enacted.

An amendment was passed by Congress extending this privilege to such people who had previously filed claims, but did not extend it to those who had not filed claims under the original act. I favor this legislation, but I would like to suggest one other group who I believe are at least as much entitled to be considered as the group of late nationals who suffered property damage. I refer to people who were native born citizens and who suffered personal injury claims during the war with Italy.

In 1955 at the request of Congressman Vorys, who was then with the committee, I testified in behalf of this group of people, and I was asked by Mr. Fulton to submit the form of a statement to be incorporated into the committee report, to make sure that personal injury claims would be paid.

I did. A specific statement was contained in the report of the committee, and also of the Senate committee, which indicated that personal injury claims should be paid.

Thereafter these people filed claims, and the then Commission, which is not the present existing Commission, for some reason decided that claims should be paid for personal injury only up to 1943, at which time there was an armistice in southern Italy. Meanwhile, the fighting in northern Italy continued unabated by the Italian Fascist forces with the assistance of the Germans.

In some cases the Commission paid for personal injuries after 1943, and in some cases did not pay, entirely inconsistently. There was no reason given as to why they discriminated in this way.

Thereafter, Senator Young of Ohio, when his attention was called to this discrepancy by the press, became interested in the matter, and submitted a statement for the Congressional Record last year in which he pointed out he was with the Army in Italy in military government, that he had been personally aware of the struggle in northern Italy after 1943, and thought this was entirely unrealistic, to say the war was over in 1943 when a great portion of the hard fighting in Italy occurred thereafter, in the mountains and northern areas of Italy.

I would propose, in supplementing the proposal that was made by the administration, that just a few words be added, namely—at the top of page 6 of the bill as it has been printed, after the word “persons” in the second line, I would say that the words “who filed claims for property damage and” should be inserted.

The effect of that is that the only people who should not be foreclosed from filing claims other than those who were late nationals are those who filed for personal injuries. In other words, permission should be given to the present Commission to reconsider these personal injury claims of native born citizens who have not been compensated.

I think this is entirely consistent with the legislation and the legislative history, and it seems to me the failure to pay these claims was simply contrary to the intent of Congress. There is money to pay them. The money doesn't have to come from the Treasury. There is over \$1 million in Italian funds that is provided for this purpose.

As I understand, the claims which were contemplated by the administration measure would not anywhere near take up this \$1,088,000. I feel that before this money, the balance of it, is transferred to the Treasury for general use, we have an obligation, not only to our citizens, but to Italy under the arrangement whereby they deposited \$5 million here to be used for the purpose of paying American claims

against Italy. I think since there are outstanding at least two classes of claims that have not been compensated there is no reason that they should not both be provided for. I suggest these few words be added to the administration bill.

(The complete statement of Mr. Reiter is as follows:)

STATEMENT OF ROBERT H. REITER

My name is Robert H. Reiter, and I am an attorney with offices at 1422 K Street NW., Washington, D.C. There are a few matters that I would like to present for consideration in connection with the legislation now before the Committee.

I

First, in connection with the proposal to use the remaining more than a million dollars to pay claims of late nationals against Italy, while I endorse such use of funds which are essentially trust funds deposited by Italy, for the purpose of paying American claims against Italy, and should not under the terms of the obligation we assumed in accepting these funds simply be put into the Treasury while there are claims outstanding, I would like to suggest a category of claims which is at least as appealing and legally well-founded—that of native born Americans who were personally injured in Italy. Mr. John Vorys asked me to testify on this subject when this legislation was before the Committee in the 84th Congress, and the Chairman asked for language to incorporate into the Committee report. As a result, the language I proposed was used, and appeared in House Report No. 624, 84th Congress, 1st Session, on page 14, as to the type of claims covered by the statute, including the following:

"Property losses outside of Italy and claims for personal injury and suffering and other losses would be compensable."

I am taking the liberty of appending to this statement as Exhibit A a copy of the portion of my testimony in 1955 on the subject before this Committee. The Senate committee report used the same language, and yet, the former commission established a qualification in some cases limiting payment to claims arising before the Armistice in 1943 in Italy, before the Germans invaded Italy. Yet a number of valiant Americans, including Carl Hauss of Cincinnati, were captured by the fascists during the fighting in northern Italy, and suffered serious injury while fighting for the Allied cause. He was decorated by the Italian Government, but the American commission established an arbitrary position in some cases only by denying compensation from moneys deposited by Italy for this purpose. The discrepancy in treatment came to the attention of the press, and I am attaching copies of the articles written on the subject, as Exhibit B.

Senator Young of Ohio was in the American Army in Italy during this period, and placed a statement in the Congressional Record regarding this matter, which I am appending as Exhibit C.

The only change in the form of bill proposed by the Administration which would be required to take care of this situation is to insert at the top of page 6 of the bill after the word "persons" in the second line the words "who filed claims for property damage and". The effect would be to permit reconsideration of personal injury claims by the Commission.

II

A second matter relates to a provision which was passed by the Senate in two Congresses, the last and the one before, relating to the elimination of an error in the drafting of the return provisions of this legislation. The statement of the Senate Committee Report well covers the merits of this legislation, as follows:

"The committee wishes to emphasize that it is not urging the Senate to pass a bill which would contravene any of the well-established principles of international law which have been consistently followed in the past in connection with the payment of claims of American citizens under the International Claims Settlement Act of 1949, as amended. * * * The committee does not believe there is any legal or equitable justification for the application of a double standard in cases of this nature * * * Both the Department of State and the Department of Justice are of the opinion that there appears to be no valid reason for these differences in treatment and favor the enactment of S. 2634."

What would be required is the amendment of the International Claims Settlement Act of 1949, as amended, by adding section 216 at the end of title 11 thereof, as follows:

"Sec. 216. (a) Notwithstanding any other provision of this Act or any provision of the Trading With the Enemy Act, as amended, any person—(1) who was formerly a national of Bulgaria, Hungary, or Rumania, and (2) who, as a consequence of any law, decree, or regulation of the nation of which he was a national discriminating against political, racial or religious groups, 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, shall be eligible hereunder to receive the return of his interest in property which was vested under section 202(a) hereof or under the Trading With the Enemy Act, as amended, as the property of a corporation organized under the laws of Bulgaria, Hungary or Rumania if 25 per centum or more of the outstanding capital stock of such corporation was owned at the date of vesting by such persons and nationals of countries other than Bulgaria, Hungary, Rumania, Germany, or Japan, or if such corporation was subjected after December 7, 1941, under the laws of its country, to special wartime measures directed against it because of the enemy character of some or all of its stockholders; and no certificate by the Department of State as provided under section 207(c) hereof shall be required for such persons.

"(b) An interest in property vested under the Trading With the Enemy Act, as amended, as the property of a corporation organized under the laws of Bulgaria, Hungary, or Rumania shall be subject to return under subsection (a) of this section only if a notice of claim for the return of any such interest has been timely filed under the provisions of section 33 of that Act, provided that application may be made therefore within six months after the date of enactment hereof. In the event such interest has been liquidated and the net proceeds thereof transferred to the Bulgarian Claims Fund, Hungarian Claims Fund, or Rumanian Claims Fund, the net proceeds of any other interest representing vested property held in the United States Treasury may be used for the purpose of making the return hereunder.

"(c) Determinations by the designee of the President or any other officer or agency with respect to claims under this section, including the allowance or disallowance thereof, shall be final and shall not be subject to review by any court.

"SECTION 2. The first sentence of section 207(c) of the International Claims Settlement Act of 1949, as amended, is amended to read as follows:

"(c) The sole relief and remedy of any person having any claim to any property vested pursuant to section 202(a), except a person claiming under section 216, shall be that provided by the terms of subsection (a) or (b) of this section, and in the event of the liquidation by sale or otherwise of such property, shall be limited to and enforced against the net proceeds received therefrom and held by the designee of the President."

III

The Congress of the United States, in Public Law 285 of the 84th Congress, established a program for the vesting of assets in the United States of Rumania, Hungary and Bulgaria, to be used to pay war damages, and claims for nationalization after World War II by those countries of property of American citizens. The use of such property to pay nationalization claims was something unique, and for this reason, the Congress carefully limited the application of this seizure program to property belonging to the governments of these countries and to corporations organized in those countries, in light of the fact that all corporations had been nationalized under the Communist regimes. As stated in the Staff Memorandum of the Committee on Foreign Relations of the U.S. Senate in March 1963, on page 6.

"Accordingly, Title II of the International Claims Settlement Act of 1949 (approved August 9, 1955) was enacted to authorize the vesting of assets in the United States owned by Bulgaria, Hungary, and Rumania and their nationals, other than natural persons. The exclusion of the latter category follows the principle of American law that the property of private individuals should not be used for the payment of debts out of acts of foreign governments. Therefore, Title II provided that the assets of private persons would be retained in a blocked status "subject to release when, as, and upon such terms as the President or his designee may prescribe." The proceeds from the liquidation of the other vested assets, however, were transferred to special funds in the Treasury and used to pay compensation to qualified American claimants against the governments of the three countries referred to."

The principal problem in connection with the program for divesting individually owned assets belonging to nationals of these three iron curtain countries was that

of getting the information regarding the release provisions into their hands, isolated as they have been from news from the free world, and risky as it would have been for them to have taken any action regarding assets held in the free world, which would undoubtedly have been confiscated by their governments. The only possibility, for all practical purposes, lay in the possibility of escape, which was a very hazardous undertaking. The Office of Alien Property of the Department of Justice, the agency designated to administer the program, itself made an effort based on its records to make some divestments, but, of course, it did not have full information in many cases. There have been cases where individuals have escaped from these Communist countries to the free world, and are now in a position to apply for the divesting of their property, although during the one year period provided for divesting applications, they were still behind the iron curtain, and without any knowledge of their divesting right or any possibility of making such application. In light of the earlier expressed policy of the Congress against the use of individually owned property for the purpose of paying war and nationalization reparations owing by the governments of these satellite countries, it would seem appropriate that legislation be enacted for the purpose of allowing the claims of these individuals who have succeeded in escaping from the Communist countries to apply for the divesting of their property.

To take two specific examples:

1. Amadeu Ghitescu, of Bucharest, Rumania, together with his partner, N. Butculescu, had represented the Caterpillar Tractor Company of Peoria, Illinois, for years before World War II, and at the outbreak of the war, they had a credit balance with Caterpillar of approximately \$213,000, which they took no steps before the war to remove to Rumania. Both these men survived the war, and Mr. Butculescu managed to escape to the United States in 1948, and applied for the release of his portion of the fund. This was granted. Mr. Ghitescu was arrested by the Communist government of Rumania for his pro-Western activities and was killed while in prison. His wife and two sons managed to escape in 1962, and being in desperate need of assistance, applied for the release of the property of their father and husband. They were informed that their property could not be released since a one-year deadline had been established in the original legislation for such releases, and it was too late for them to apply. The law was never intended to produce this inequitable result, where two persons similarly situated are differently treated simply because one was arrested while working for the Allies and could not leave within the one-year period established.

2. Two ladies, Gisela Hanke and Yolanda Sook, managed to travel from Hungary to West Germany and applied to the Office of Alien Property for the release of their inheritance interests in this country. They received a letter from that agency dated April 10, 1961, a copy of which is appended as Exhibit D, unblocking their funds, only to be later informed that they were vested and were no longer subject to unblocking.

It is for the purpose of eliminating these inequities that the following amendment is proposed, at the end of section 202 of the International Claims Settlement Act of 1949, as amended:

"(e) At any time following the date of vesting of any property subject to divesting pursuant to this section, and prior to the transfer of the net proceeds of any vested assets transferable but not yet transferred to the General War Claims Fund, the President or his designee shall divest the portion thereof equivalent to the net proceeds of the interest vested, upon application of the natural person determined by the President or his designee to be the beneficial owner of such vested interest, and return it to its blocked status prior to vesting, subject to release when, as, and upon such terms as the President or his designee shall prescribe."

EXHIBIT A

FOREIGN CLAIMS SETTLEMENT COMMISSION

[Hearings before the Committee on Foreign Affairs, House of Representatives, Eighty-fourth Congress, First Session, on Draft Legislation To Amend the International Claims Settlement Act of 1949, as Amended, and for other purposes, March 22, 29, 30, April 19, 20, 21, and 22, 1955]

Mr. FULTON. Some of the members of the committee would ordinarily leave it to the discretion of the particular claims commission, as we have done previously.

As you have come from a pretty good law school, I would like to have you submit any further language that you might like as an amendment to tie this thing down. We may be making new footsteps on the sands of international claims that we have not come up with so far.

Mr. REITER. I didn't intend that it should take the form of an amendment to the bill, because it is strictly a procedural matter which probably, as you say, is within the realm of the Commission's discretion.

I only hoped to indicate possibly for incorporation in the report of the committee the problems which will be faced in that matter.

Mr. FULTON. Could you submit language embodying that particular provision?

Mr. REITER. I would be delighted to, if I may.

(The following has been submitted for the record:)

"SPAULDING, REITER & ROSE,
"Washington 5, D.C., April 27, 1955.

"Hon. JAMES P. RICHARDS,
"Chairman, Committee on Foreign Affairs,
"House of Representatives,
"Washington, D.C.

"DEAR CONGRESSMAN RICHARDS: In accordance with the suggestion made during the course of my testimony before your committee on April 22, 1955, on the proposed legislation to amend the International Claims Settlement Act of 1949, below is submitted suggested language for inclusion in the committee's report. The particular problem to which it is addressed is the virtual impossibility of obtaining documentary evidence regarding description, title, value, and damage to property located in Soviet-dominated countries, in conjunction with claims for war damage and taking in Bulgaria, Hungary, and Rumania under title II.

"The purpose of such language would be to indicate the committee's recognition of the particular seriousness of this problem with respect to these classes of claims. The language might be somewhat as follows:

"It is recognized that the obtaining of documentary evidence from areas under Soviet domination is almost completely impossible, and that consequently the Commission will find it necessary to rely in many instances on secondary evidence to establish the details of the claims filed under this title."

"The other suggested reference in the committee report which I proposed was with respect to the claims of American civilians in Italy who were forced into hiding to avoid arrest and incarceration by the Italians and Germans, some of whom even joined the underground and guerrilla forces fighting the enemy, and were wounded or became diseased. Particularly since the \$5 million deposited by Italy to cover American claims is expected to exceed the total value of claims to be filed, I feel that the committee might in its report indicate its recognition of the existence of the claims of these Americans for their injuries and suffering, in addition to property damage claims. Suggested language covering this point, for incorporation in the committee's report on title III, might be as follows:

"Claims to be considered under this title are those of American nationals against the Government of Italy and with respect to which provision for compensation was not made in the Treaty of Peace with Italy. These include such claims as those for property losses outside Italy, and for personal injury and suffering, not covered by the Treaty.

"In the event I can be of further assistance, I shall be pleased to do so.

"Sincerely,

"ROBERT H. REITER."

EXHIBIT B

[From the Dayton Daily News, Mar. 15, 1964]

Why? Mother Asks

NO PAY FOR YANK CAPTURED IN WAR

(By Walter Bybeck)

WASHINGTON, February 29.—A 90-year-old Cincinnati woman can't understand why her son, captured by Italian Fascists, cannot get paid for injuries suffered during his imprisonment.

A \$5 million fund to pay American citizens for personal injuries and property losses caused by the Italians still has over \$1 million of unused money—but Carl L. Hauss has not been able to get a penny.

Hauss' mother lives in Cincinnati while he tries to support her from Italy, where he has resided since the end of World War I.

During World War II, Hauss fled to the hills and joined the underground. He was captured by Italians, put in solitary confinement for nearly 6 months and sent to other prison camps.

According to Hauss' letters, he was deprived of water for 2 months, rarely allowed to leave his cell, subjected to extreme cold, taken ill with chicken pox, and menaced by Fascist guards.

When he was liberated 2 years later by Americans, Hauss was 52 years old, suffering from complete loss of his teeth, rheumatic arthritis, nervous exhaustion, and other ailments.

The Foreign Claims Settlement Commission in Washington, however, denied Hauss' petition for reimbursement for his loss of health. Explained an official in the legal office:

"The Italian Government already capitulated on September 3, 1943, but Hauss was not arrested until November. The Germans, not the Italians, were in charge. It's just one of those things."

The fact that Hauss was captured by Italians, imprisoned by them, and charged in an Italian court for helping American and English soldiers escape makes no difference, ruled the claims officer.

"The Germans were in top control," he said.

The case is complicated because Italians in the north, where Hauss was, continued to fight the Allies after the Italians in the southern part of the country surrendered.

Yet the Claims Office, in case after case it approved, used the phrase "as a result of the war in which Italy was engaged from June 10, 1940, to September 15, 1947." So the treaty date, not the capitulation, would seem to be pertinent, especially in view of the continued Italian fighting in which Hauss was caught.

A similar case, uncovered by the Daily News, reveals that the "German responsibility," has not always prevailed:

The two children of Sylvio C. Leoni (now deceased) were awarded \$2,500 each because of the inhuman treatment to their father. The decision notes:

"The loss and neglect occurred in a series of events beginning in December 1943 as a consequence of military operations in which Italy participated."

[From the Dayton Daily News, Mar. 15, 1964]

COMMISSION BAFLED ON POW INEQUITIES—BUREAU AGREES WITH DAILY NEWS BUT DOESN'T KNOW WHAT TO DO ABOUT IT

WASHINGTON, March 14.—The Foreign Claims Settlement Commission said it agrees with a recent Daily News story about an apparent inequity, but does not know what to do about it.

Carl L. Hauss, severely injured in Italian prison camps during World War II, was denied any money from the \$5 million fund set up to repay American citizens for their losses.

At the time of this denial, the Claims Commission said it was because the injuries to Hauss (whose mother lives in Cincinnati) occurred 2 months after the Italians capitulated to the Americans.

But the Daily News draws a parallel case where another man was injured by Fascists in northern Italy after southern Italy had capitulated.

Ben Greer, staff attorney for the General Counsel of the Claims Commission, said detailed files would probably show some reason for the different treatment.

After examining those files, however, Greer said:

"The facts appear substantially similar. There must have been some good reason. Sylvia Leon (the other man) was arrested before the capitulation, but his injuries also took place after the armistice, according to the records. I really can't say why both cases were not treated alike."

Greer further explained that, because of the statute of limitations, it is too late to do anything for Hauss, now 70 and still suffering disabilities.

Senator Stephen M. Young said he is interested in the Hauss case, especially since he was a military governor in Italy after the American invasion.

The Ohio Democrat said he would discuss the Hauss case with Senator J. W. Fulbright, Democrat, of Arkansas. Fulbright, as chairman of the Foreign Relations Committee, is studying further legislation in connection with unmet war claims.

Hauss, who has lived in Italy since the First World War, fled to the hills to join the underground. He was captured by Italians and charged in an Italian court for aiding allied soldiers.

EXHIBIT C

[From the Congressional Record, Sept. 7, 1965]

LET US END THIS INJUSTICE—AMENDMENT OF INTERNATIONAL CLAIMS SETTLEMENT ACT

Mr. YOUNG of Ohio. Mr. President, pending on the Senate Calendar is S. 1935, proposed by the administration to amend the International Claims Settlement Act in connection with, among other things, the disposition of funds deposited in the U.S. Treasury by the Government of Italy to pay claims of Americans who suffered as the result of the fighting in Italy during World War II.

More than a million dollars remain in the fund, and this proposal would re-open the claims program. A suggestion was made during the hearings before the Senate Foreign Relations Committee of an inequity which occurred during the Foreign Claims Settlement Commission's earlier consideration of personal injury claims, and which a representative of the Commission acknowledged, but which could not previously have been cured because of the absence of congressional authority for further action on Italian claims.

What happened was that two Americans to my knowledge in the same situation were treated differently. The man whose claim was disallowed, Carl Hauss of Cincinnati, Ohio, fought valiantly against the Italian Fascists, and was arrested by them near Milan, Italy, after the armistice. Both the agreement with Italy under which the funds were deposited in the U.S. Treasury, and the legislation providing for the payment of claims, provided for payment of claims of this type, and yet, despite the suffering of Mr. Hauss in the cause of the Allies, his claim was not allowed, while others in the same situation were allowed and compensation was provided.

I know personally, having served with the U.S. Army in northern Italy during World War Two, of the continuing participation of the Italian Fascist forces in combat in Italy there after the armistice was signed in 1943 and Italy officially was out of the war. I know of the activities of the partisans against the Fascists thereafter. It would be most unfortunate if Americans who were injured or suffered property damage in Italy could not be compensated from the fund provided by Italy for that very purpose.

A million dollars remains in that fund and I know of no reason for not providing such compensation. The International Law Committee of the District of Columbia Bar Association took this position in connection with this legislation which was proposed but not acted upon in the last Congress, and I ask unanimous consent to have printed at this point in the RECORD a copy of its resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

MINUTES OF THE MEETING OF THE COMMITTEE ON INTERNATIONAL LAW OF THE DISTRICT OF COLUMBIA, HELD FEBRUARY 13, 1964, IN THE BOARD ROOM OF THE NATIONAL SAVINGS & TRUST CO.

"Mr. Herman moved the adoption of the resolution and the motion was seconded. After a full discussion, the resolution was unanimously adopted and the chairman was authorized and instructed to deliver a copy of the resolution and a report of the action of the Committee to the Board of Directors of the Bar Association of the District of Columbia with a recommendation that the resolution be approved by the board and that appropriate further action be taken to communicate the position of the Bar Association of the District of Columbia to the Committee on Foreign Relations of the U.S. Senate. The other matter involved S. 947 (proposed legislation relative to the Italian Claims Fund established by the Government of Italy for the payment of claims of U.S. nationals arising out of the war). The following resolution was moved and seconded:

RESOLUTION

"Whereas the Senate Foreign Relations Committee is considering S. 947, one provision of which would pay over the balance of the Italian Claims Funds to the U.S. Treasury toward prisoner of war and detention payments made from other funds; and

"Whereas said fund was provided under international agreement the germs of which allowed the use of the fund only for the payment of claims not otherwise provided for; and

"Whereas there appear to be claims of American citizens not provided for which should be given consideration by the Congress: Now, therefore, be it

"Resolved, That this matter should be called to the attention of the Senate Foreign Relations Committee in its consideration of S. 947, and that a member of the international law committee be authorized to present this situation at any hearings to be held on this legislation."

Mr. YOUNG of Ohio. Mr. President, a reexamination of this matter is clearly in order. Although it may not be practical at the end of this session for the Senate to debate the question, I hope that when either the legislation is considered by the House of Representatives or in connection with private legislation to provide for the payment of worthy cases out of the balance of the Italian Claims Fund, full consideration can be given to the inequity which occurred to these brave Americans who risked so much for the cause of freedom, and suffered so much as a result. The authority exists under the basic legislation and the funds are available without utilizing taxpayers' money. All that is required is for the Congress to authorize the procedure for the consideration of the claims.

EXHIBIT D

DEPARTMENT OF JUSTICE,
OFFICE OF ALIEN PROPERTY,
Washington, D.C., April 10, 1961.

Miss GISELA HANKE,
Munich, Germany.

DEAR MISS HANKE: This letter will constitute your authority to notify the institutions identified in the letter written by the Swiss Credit Lausanne, Switzerland, dated August 5, 1952, that the funds deposited for the account of the Estate of Miss Adele Grimm are no longer subject to the provisions of Executive Order No. 8389, as amended, and consequently are unblocked.

This action is taken following the receipt of authenticated documents showing that you are the beneficiary of the proceeds of the estate and that you are presently registered as a resident of Munich, Germany.

Very truly yours,

PAUL V. MYRON,
Acting Director.

EXHIBIT E

Foreign Claims Settlement Commission of the United States

Claim No. IT-10,833; Decision No. IT-879

IN THE MATTER OF THE CLAIM OF ALESSANDRA BORRIONE LEONI, PATRICIA AGNES LEONI, CARLO ALESSANDRO LEONI, 7 VIA MARCORA, MILAN, ITALY

Under the International Claims Settlement Act of 1949, as amended

Attorney for Claimant: AVV. Guido Frati, 10 Via C. Mayr, Milan, Italy.

PROPOSED DECISION

This is a joint claim for \$33,440.00/ by Alessandra Borriore Leoni (married to Sylvio C. Leoni February 25, 1933 at Turin, Italy, a native born citizen of the United States, July 19, 1886, until his death October 1, 1951 at Milan, Italy) and daughter, Patricia Agnes Leoni, and son, Carlo Alessandro Leoni, born of an American father, and is for internment, loss of income, wrongful death of her husband, loss of support for herself and minor children, as a result of the war in which Italy was engaged from June 10, 1940 to September 15, 1947.

Section 304 of the aforesaid Act provides for the receipt and determination by the Commission in accordance with the Memorandum of Understanding and applicable substantive law, including international law, of the validity and amount of claims of nationals of the United States against the Government of Italy, arising out of the war in which Italy was engaged, and with respect to which provision was not made in the Treaty of Peace with Italy.

The Commission has consistently held that claims for loss of income are speculative in character and are not compensable. Therefore, that portion of this claim relative to income must be and hereby is denied.

The facts as established by the evidence of record reveal that the claimant, Alessandra Borriore Leoni, has failed to furnish evidence which would support her contention that she is a national of the United States. Therefore, she is not eligible for compensation under Section 304 of the Act.

The record further reveals that Patricia Agnes Leoni and Carlo Alessandro Leoni are United States citizens and eligible claimants.

The record also appears to support the claimant's contention as to entitlement for personal injuries suffered by her late husband, wrongful death, and loss of support for herself and her two minor children, heretofore named.

A sovereign state may detain, intern, or even expel enemy subjects without violating international law, and the mere fact of internment itself is not a violation thereof in the absence of evidence showing that a rule of international law was violated during such internment or detention.

The records disclose that Sylvio C. Leoni (deceased) was arrested and during his imprisonment was, in fact, subjected to experiences which were not in conformity with the generally accepted precepts of international law, that he suffered personal injuries which were the proximate cause of his death, and that the result therefore was the denial of support of his wife and children.

The record reveals that the loss and neglect occurred in a series of events beginning in December 1943 as a consequence of military operations in which Italy participated. While the record fails to establish the definite date of loss and neglect, it is deemed to have occurred on or about December 22, 1943 for the purpose of this decision.

The Commission finds from the evidence and data before it that the fair and reasonable extent of the loss suffered was \$7,500.00 and that the children of the decedent are each entitled to one-third of said award.

AWARD

On the above evidence and grounds, this claim is allowed and an award is hereby made to Patricia Agnes Leoni in the amount of \$2,500.00; and an award is hereby made to Carlo Alessandro Leoni in the amount of \$2,500.00.

Dated at Washington, D.C., Dec. 30, 1958.

For the Commission:

J. NOBLE RICHARDS,
Director, Italian Claims Division.

EXHIBIT F

Foreign Claims Settlement Commission of the United States

Claim No. IT-10,863; Decisor No. IT-859

IN THE MATTER OF THE CLAIM OF CARL L. HAUSS, VIA PLUTARCH 2, MILAN, ITALY

Under the International Claims Settlement Act of 1949, as amended

Attorney for Claimant: Robert H. Reiter, Esquire, Spaulding, Reiter & Rose, Suite 601, 1311 G Street NW., Washington 5, D.C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on December 15, 1952, a certified copy of which was duly served upon the claimant. Thereafter, objections were filed and evidence and arguments were presented by counsel at a hearing held on May 21, 1959.

The Commission finds that claimant was arrested on or about November 20, 1943 at San Martino (Luino), Italy, during a skirmish between partisans and the Forces of Germany, and that he was imprisoned at San Vittore Prison, Milan, Italy, at the disposition of the German police. Thus, the Commission also finds that the claim herein asserted under Section 304 of the Act is not compensable since the alleged injuries, if any, for which claim was made were sustained by German action and subsequent to the capitulation during World War II of the Forces of Italy, on September 3, 1943. The Commission finds it unnecessary to make determinations with respect to other elements of the claim.

General notice of the Proposed Decision having been given by posting for thirty days, it is

Ordered that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Washington 25, D.C., June 8, 1959.

WHITNEY GILLILLAND,
PEARL PACE,
ROBERT L. KUNZIG,
Commissioners.

EXHIBIT G

AFFIDAVIT

I, Carl L. Hauss, being duly sworn, deposes and says as follows:

1. I am an American citizen, and have been so continuously since by my birth on January 30, 1894 at Norwich, Connecticut, I am presently residing at Milan, Italy, Via Plutarco 2, and I am in possession of American Passport No. 164349 issued at the American Consulate General at Milan, Italy, on July 28, 1958.

2. I was a businessman in Italy when the United States declared war on Italy. I was unable to return to the United States, and was interned in Italy for five months, and then released. When the Allies landed in Italy in 1943, it was generally known that Americans were being inhumanely treated, both soldiers and civilians, and as a result the Americans in Italy fled to avoid capture. I escaped into the mountains, where I managed to survive only by living among the partisans, until I was captured by the Italian fascist forces in November 1943 and sent to San Vittore Prison in Milan, Italy, which was under joint Italian and German control, and held to await trial by an Italian Court for having assisted American and English soldiers in the mountains in avoiding capture.

2. I was held in San Vittore prison for 7 months, and during that time I was isolated for 6 months and only after the intervention of Dr. Gatti (as per Affidavit enclosed) the San Vittore prison doctor, who seeing my state of complete exhaustion (nervous breakdown) and physical condition managed to have me transferred to a normal cell where Mr. Aldo Carpi, well known painter and Brera Academy professor made a sketch of me, of which I enclose a photocopy and also an affidavit from Professor Carpi.

During the six months of isolation, I was unable to leave my cell for any reason and although according to International Law I should have been allowed an hour's airing per day, this privilege was practically never accorded me, except on a few occasions. In this cell I could never obtain reading material of any kind and when I tried to talk with one of the guards, I was menaced by fascist sergeant to be beaten. I had absolutely no heating and with broken windows during an exceptionally cold winter. For the first two months I had no water, no towel, no soap, no tooth brush, no change of linen, no sheets and only a light cover. Food consisted only in a would be soup once a day. My only contact with the world was the cries of fellow prisoners being beaten by fascisti and SS guards or being carried away to be shot. I also enclose a statement from Indro Montanelli, the newspaper correspondent of the *Corriere della Sera*, also well known after the war in the States, who was with me in San Vittore. From S. Vittore I was transferred to a prison camp in Bolzano where I was taken with chicken-pox and was cured by a fellow prisoner, an American, who I believe was taken prisoner in Florence, Italy, where he was studying. I do not remember his name.

4. As a result of my treatment by the Italians, my teeth were ruined, and I was obliged to have false teeth made after the war, as per statement by Doctor Dugnani. I contracted rheumatic arthritis, which has caused me continuing pain and incapacitation, as per the statement of Dr. Rohonci. Also my nervous system suffered from the condition of my imprisonment, and this condition has continued to the present day, as per the statement of Dr. Canale.

Owing to this continued nervous condition. I am obliged by Dr's advice not to drive my car during week days and have therefore a chauffeur, which subjects me naturally to an extra expense.

5. Finally I was liberated by the 70th Armored Infantry Battalion, and I worked with the Allied Military Government in Italy until January 23rd, 1946, when I had to start my business all over again, in my poor state of health, having

lost everything as a result of the war, for which my only possibility of compensation is this claim.

CARL L. HAUSS.

REPUBLIC OF ITALY, *Province of Milan, City of Milan,*
Consulate General of the United States of America, SS:

Subscribed and sworn to before me, this 18th day of May 1959.

(To be used only by War Damages Office.)

Service No. 1474.

No fee prescribed.

Item 58A (copy).

[SEAL]

HARRY W. JACOBS,

Vice Consul of the United States of America.

Mrs. KELLY. Mr. Reiter, could you explain the reason why these claimants did not qualify previously?

Mr. REITER. I have appended to the statement that I prepared for record purposes the decision of the then Commission. They said because of the fact that it occurred after September 3, 1943. September 3, 1943, was the date of the armistice which was signed with the government of Italy in southern Italy. That didn't control Mussolini who, you remember, went into northern Italy with the assistance of the Germans and managed to put up a pretty good fight after that.

It was for that reason that they considered these claims, which arose after the armistice in 1943, should not be compensable, although the statute said any damages which arose from injuries between the beginning of the war and 1947, which was the date of the peace treaty, should be compensated.

Mrs. KELLY. Did you not say that some persons did receive compensation for personal injury sustained after 1943?

Then why were not others who also applied compensated?

Mr. REITER. I have never had that adequately explained. The Daily News inquired from the Foreign Claims Commission, and they were unable to account for it. I think it was an oversight at that early time, and something which should be remedied.

Mrs. KELLY. To sum up: You believe that American citizens who suffered personal injuries in Italy during the war should be compensated? Is that correct?

Mr. REITER. Yes.

Mrs. KELLY. To your knowledge, were any of them eligible for compensation under the War Claims Act?

Mr. REITER. No, they were not.

Mrs. KELLY. And you have no knowledge as to why the executive branch did not pay some of the personal injury claims which arose after 1943?

Mr. REITER. The only understanding that I could get, and that is largely through the press which did make inquiries and an investigation as I have indicated in newspaper clippings attached to my statement—was because in some cases they applied a rule that after September 3, 1943, there was no war in Italy. That is the only justification I can find. It certainly is an inadequate justification, particularly since they didn't apply it uniformly.

Mrs. KELLY. To your knowledge, do these people have any recourse under any other law?

Mr. REITER. No, and, for example, Carl Hauss of Cincinnati, Ohio, who fought valiantly for the allied cause and was decorated by the Italians for his work with the partisans and allies, lost his health

completely. He was picked up late in 1943. This is the one class of people injured during the war who received no compensation whatever.

Mrs. KELLY. If this committee decided to do that, would it then have to reopen other claims programs for the same reason?

Mr. REITER. No; only the personal injury claims. There were relatively few personal injury claims. The great bulk of the Italian claims were claims for property damage.

Mrs. KELLY. I am asking about other countries which are also under this act.

Mr. REITER. This would only apply to people who were injured in Italy.

Mrs. KELLY. Mr. Monagan.

Mr. MONAGAN. There were personal injury claims allowed for another class of Italians?

Mr. REITER. Americans who suffered damage after 1943. I know of two, and I have cited them, and would like to place one of the decisions into my exhibits as exhibit E, and the decision in the Hauss claim as exhibit F. There were at least two cases of Americans who were injured in Italy after 1943 who were paid.

Mr. MONAGAN. They were paid after 1943, but there was a limitation in time for the period for which they could qualify, is that it?

Mr. REITER. These were all American citizens, and the original statute said that anyone who was injured during the war with Italy between 1939 and 1947 when the treaty of peace was signed could qualify.

The then Commission—I don't think the Commission now would do it—apparently in some cases applied a rule that after 1943 when we had an armistice with one government of Italy in southern Italy any claims arising after that were not compensable because we were not at war with Italy. This is not only contrary to the statute, but unrealistic.

Mr. MONAGAN. Is that ruling a matter of record?

Mr. REITER. It is. I have it in my statement, and a copy is appended as exhibit G. A factual affidavit on the Hauss claim is exhibit G.

I have two other points which I would like to make briefly. First of all, I am concerned about the provision in the International Claims Settlement Act for the divesting of property on the part of people who came to this country from Rumania, Hungary, and Bulgaria and who are natural people, whose property it was decided wouldn't be confiscated. They decided if the people could apply for them they would have the right to be returned to the owners. However, they put a 1-year limitation on the application for the divesting of this property. Unfortunately, some people, like a Mr. Ghitescu, could not get out of Rumania in time. In fact, he was arrested for his pro-Western activities, was lodged in a prison, and was killed.

His family finally managed to get out in 1962. They applied for the divesting of their property. They were told, "I am sorry. It is too late."

There are funds which the Office of Alien Property still has. These people are in need, and they should, it seems to me, have the same rights as the people who for some reason, namely their complete political passivity, neutralism, were able to escape earlier. Therefore, I propose an amendment to permit these people to have their property divested so long as there are funds available for the purpose.

Another case that was called to my attention was the case of a Miss Hanke and a Mrs. Sock, who when they came out of Hungary were told that their property was unblocked. When they came to get it they found "No, your property has now been vested."

Mrs. KELLY. I wonder, Mr. Reiter, whether the cases you are mentioning are relevant to the bill before us. Were not these matters dealt with in S. 2064 last year?

Mr. REITER. This is not 2064 I am speaking of.

Mrs. KELLY. Those cases you were referring to, are they not relevant to S. 2064 of the last Congress?

Mr. REITER. If I may respectfully suggest to you, Madam Chairman, these are not under S. 2064. They do fall under the same class of legislation, namely, what is to be done with these remaining balances and what is to be done with these loose ends under the International Claims Settlement Act.

Frankly, I believe that S. 2064 is relevant for another reason, because it covers another very worthy group of cases. These cases that I'm speaking of now were not covered by S. 2064.

Mrs. KELLY. Neither are they covered in H.R. 9063. You are asking us to enlarge the scope of the bill before us.

Mr. REITER. Frankly, in this respect I am suggesting an amendment to the pending legislation.

Mrs. KELLY. You said that you had one more point.

Mr. REITER. The other point is that since the Senate passed S. 2064 twice, being S. 2634 in the previous Congress, they prefer that the House consider that problem, and therefore I have suggested—

Mrs. KELLY. The suggestion that we incorporate S. 2064 in this bill was not recommended by the administration.

Mr. REITER. S. 2064 was recommended by both the State Department—

Mrs. KELLY. But not in the bill before us now.

Mr. REITER. No, it was a separate bill. It carried the recommendations of the State Department and Justice Department, and was passed twice by the Senate.

I figure the best way to handle it is to suggest that it be considered by this committee, rather than reintroduce it.

Mrs. KELLY. If you have any further testimony you would like to submit before we write up the report, we will be glad to accept it.

Will you take the chair at this point, Mr. Monagan? I can only stay a few more minutes to listen to Mr. Jacobs. Then I must attend another committee meeting for a brief period.

Mr. MONAGAN (presiding). The next witness is Mr. Harold M. Jacobs, of the Brooklyn Jewish Community Council.

Mr. Jacobs.

STATEMENT OF HAROLD M. JACOBS, BROOKLYN JEWISH COMMUNITY COUNCIL

Mr. JACOBS. Mr. Acting Chairman and Madam Chairman, first let me say I am very proud this afternoon to be here, and especially on an occasion when my own Congresswoman is chairing this wonderful and important hearing. I think it is a most important hearing.

I was asked to be here in the capacity of president of the Brooklyn Jewish Community Council. Our past president, Mr. Lindenbaum, at

the last hearing wasn't well, and we were represented by Howard Fish. While I do represent the Brooklyn Jewish Community Council, an organization consisting of 600 constituent organizations with a membership of approximately 800,000 Jews in the Borough of Brooklyn, on the other side of the ledger I am to be the national chairman of the Board of the Union of Orthodox Congregations of America who support this particular bill. They represent almost 2 million members in the Jewish Orthodox movement.

I want to thank you for this opportunity to present the proposed amendment to H.R. 9063.

The Brooklyn Jewish Community Council is particularly interested in this amendment because in our community of Brooklyn we have a number of people, American citizens of Polish origin. I would like to present this memorandum regarding this particular amendment sponsored by our council.

On April 24, 1967, Representative Edna F. Kelly, at the request of the executive branch, introduced H.R. 9063, which proposes to amend in various respects the International Claims Settlement Act of 1949, as previously amended. The act provides for distribution by the Foreign Claims Settlement Commission of funds provided by various foreign governments as compensation to American citizens for damages incurred during the Second World War or as a result of postwar nationalizations.

The Brooklyn Jewish Community Council proposes that H.R. 9063 be amended so as to provide additional relief, at no cost to the United States, for American citizens whose property has been confiscated by the Communist Government of Poland since the end of the Second World War. The text of the proposed amendment is submitted herewith.

Mr. MONAGAN. It may be made a part of the record at this point without objection.

(The information referred to is as follows:)

PROPOSED AMENDMENT TO H.R. 9063

Section 6, title I, of the International Claims Settlement Act of 1949, as amended, is further amended as follows:

Section 6, title I, is amended by inserting "(a)" after the section number and adding at the end thereof the following subsection:

"(b) The Commission shall complete its affairs in connection with the settlement of United States-Polish claims arising under the Polish Claims Agreement of July 16, 1960, not later than March 31, 1968."

Mr. JACOBS. Most of the provisions of H.R. 9063 parallel proposed amendments to the International Claims Settlement Act, as adopted by the U.S. Senate, 89th Congress, first session. Hearings on the Senate bill were thereafter conducted by the House Foreign Affairs Subcommittee on Europe of the 89th Congress, second session. Due to more pressing legislative problems, the Senate bill was not considered by the full House committee nor reported to the floor.

The amendment sponsored by the Brooklyn Jewish Community Council was included in S. 1935 as section (2) thereof, but was omitted from the text of H.R. 9063, as sponsored by the executive branch and introduced by Mrs. Kelly.

The amendment of the Brooklyn Jewish Community Council proposes to add language to title I, section 6, of the International

Claims Settlement Act so as to empower the Foreign Claims Settlement Commission to consider claims arising under the claims agreement between the United States and Poland until March 31, 1968.

Thousands of Americans—Catholics, Protestants, and members of the Orthodox Christian faiths, as well as Jews—were deprived of property rights by the Polish Communist Government. Many of these claimants emigrated to the United States during the years of religious and racial persecution which preceded this country's entrance into the Second World War.

Unprecedented difficulties hampered many claimants against Poland in procuring evidence with which to establish their rights before the Foreign Claims Settlement Commission. For one thing, the physical destruction which accompanied the end of the Second World War obliterated many public records and destroyed banks, public registries, and other depositories of evidences of property ownership.

Secondly, the Russian Army looted most of the stock certificates which they found in Eastern Europe.

Thirdly, those who migrated in the 1930's in fear of their lives left Europe hurriedly and did not have the time nor the ability to bring documents with them to establish their property rights. The changes of political boundary lines, the dropping of the Iron Curtain and other factors made it difficult for many claimants to establish their rights. In addition, many claimants were not aware of the standards of proof required by the Foreign Claims Settlement Commission in Washington until insufficient time to procure necessary evidence remained prior to the completion of the Polish claims program on March 31, 1966.

The borders of Poland were de facto enlarged at the end of the Second World War to include a large area located east of the Oder and Neisse Rivers. Claims relating to expropriated property located in this newly added Polish territory have been particularly difficult to prove, for it was often necessary to secure official documents from both German and Polish sources.

In Report No. 682 which accompanied its submission of S. 1935, the Senate Committee on Foreign Relations acknowledged that difficulties and delays had hindered many claimants in obtaining documentary evidence with which to establish their rights. Accordingly, the Senate proposed to extend the Polish claims program until March 31, 1968.

A recent liberalization of attitudes in Poland and in Germany now facilitates the obtaining of proof of ownership of property which was confiscated by the Polish Government after 1945.

Many individuals whose cases were timely presented to the Foreign Claims Settlement Commission were unable, despite their diligence, to obtain necessary evidence. These claimants have already been severely injured in both purse and person by actions taken in Europe. In the interests of justice these deprived claimants should be given a reasonable additional time within which to prove their claims.

The original proposal of the Senate Committee on Foreign Relations in September of 1965 was to extend the period of proof for claims against Poland from March 31, 1966, to March 31, 1968; that is, 2 years. Diligent claimants have, of course, been seeking additional evidence continuously since the Senate proposal was first made. The grace period for proof of claims which is now appropriate would be an

extension to the date recommended by the Senate; that is, until March 31, 1968. This would extend the claims proof period for approximately 9 months.

The extended claims proof period recommended by the Brooklyn Jewish Community Council and embodied in the amendment submitted herewith would not place any burden upon taxpayers. The reason for this is that section 7(b) of the International Claims Settlement Act provides for a 5-percent deduction from each deposit made by a foreign government for compensation of American claimants. These 5-percent deductions are used to reimburse the U.S. Government for expenses incurred by the Foreign Claims Settlement Commission and the Treasury Department in administering the claims programs.

Andrew T. McGuire, Esq., General Counsel of the Foreign Claims Settlement Commission, testified on August 9, 1966, that the aggregate deductions paid over to the U.S. Government had exceeded the costs of administering the claims programs.

(Hearing before the Subcommittee on Europe, Committee on Foreign Affairs, House of Representatives, 89th Cong., 2d sess., on S. 1935, p. 31, cited hereinafter as "hearings.")

In August of 1966, the Foreign Claims Settlement Commission, the Treasury Department, and the Department of State objected to an extension of the Polish claims program (hearings, pp. 4-7).

Their objections, listed below are all, it is respectfully submitted, of minor importance. These are the "objections":

(a) The executive branch contends that an extension of the program "would entail additional costs of administration to the U.S. Government" and would require additional appropriations by Congress.

However, it is pointed out in paragraph 13 of the memorandum that the Foreign Claims Settlement Commission has conceded that the claims programs are self-supporting (hearings, p. 31). The only additional appropriation which Congress would have to make would be to authorize the expenditure of funds, which are already in the Treasury, having been received from foreign governments and which have been earmarked for the administration of the claims programs.

(b) The executive branch contends that the Polish claims fund will eventually consist of only \$40 million and that the size of the presently allowed awards is such that these claimants will receive only approximately 42 cents on the dollar.

However, it would appear the important objective is to afford all claimants a reasonable opportunity to secure proofs for their claims, rather than to prefer those who, through good fortune, have been able to establish their claims most quickly.

It is not suggested that permission be given to file additional claims, but only that the claimants be given an additional period of 9 months within which to submit further proofs of their claims. It is believed that at most an additional \$10 million of claims might be proven in fact if the 9-month grace period was established and that the percentage of distributions would be decreased to not less than 35 percent of the principal amount of the allowed awards.

(c) The executive branch stated that to establish a grace period would cause a delay "for a considerable period of time in making prorated payments to the present awardees."

This is simply not true. Andrew T. McGuire, Esq., General Counsel to the Foreign Claims Settlement Commission, has stated that full

payment has been made all claims to the extent of the first \$1,000 thereof, and that a further distribution of 4.8 percent of the awards has been paid. A distribution of a further 4 percent has been made now in 1967.

The final objection of the executive branch is that to establish a grace period "is unfair and discriminatory to those claimants who, through their own initiative and diligence," have been able to secure in the past necessary supporting evidence.

However, this equates the proof of claims regarding confiscation of property by the Polish Communist Government with the establishment of facts in an American court of law, under conditions of complete governmental cooperation. The Foreign Claims Settlement Commission has conceded that—

Because of the vastly extensive property damage in Poland during World War II, the obliteration of 60 percent of the land records, and the removal of large segments of former residents from given areas, it is impossible for Polish authorities to furnish some of the information sought by the claimants. (Hearings, p. 6.)

Under such circumstances it is unreasonable to cast blame or to penalize those claimants who, because of circumstances totally beyond their control have had difficulty in salvaging their cases.

In this connection it should be noted that the Foreign Claims Settlement Commission both adjudicates and opposes claims, and that its decisions are not subject to judicial review in any event whatsoever. (*De Vegvar v. Gilliland*, 228 F. 2d 640, cert. den. 350 U.S. 994; *Haas v. Humphrey*, 246 F. 2d 682, cert. den. 355 U.S. 854.) Many of the basic decisions of the Commission outlining its requirements for proof of claims against Poland had not even been given general public distribution when the claims program expired on March 31, 1966.

If the competent and experienced Foreign Claims Settlement Commission has difficulty in establishing its principles of proof until a few months before the expiration date of the Polish claims program, it is obvious that many claimants had even greater difficulty in finding evidence, in the shambles which the war and postwar communization made of Eastern Europe.

We respectfully submit that equality of opportunity is the only principle of equity in dealing with claimants, all of whom have been subjected to property confiscation. We believe this subcommittee will agree with the Committee on Foreign Relations of the Senate that claimants should be given adequate time in which to secure evidence to substantiate their claims against Poland and that a 9 months extension of the period in which the Foreign Claims Settlement Commission may consider such claims is necessary to afford this opportunity.

It is therefore respectfully requested that this subcommittee approve the amendment sponsored by the Brooklyn Jewish Community Council and add such amendment to H.R. 9063, as prepared by the executive branch.

In the form sponsored by the executive branch, H.R. 9063 would in any event prolong the activities of the Foreign Claims Settlement Commission for the purpose of effecting an orderly disposition of payments arising out of recent claims settlement agreements with Yugoslavia, Rumania, and Bulgaria, and also with the disposition of funds remaining in the Italian claims program.

The minor administrative inconvenience embodied in establishing a 9-month period to consider additional evidence on Polish claims should be disregarded to promote equity among claimants.

I respectfully submit this brief which I have just read to you, and want to thank you for this opportunity this afternoon.

I might add that you received the blessings unofficially, your committee, last night when I received a call late in the evening from a woman in my community who is an American citizen and filed her claims. She is a widow with three children in dire need. She said that she got back an answer from Washington or from the Commission that further claims would be recognized with this extension, of course; and she is only one of many. No doubt with this extension she would be on record of filing this claim.

Thank you, sir.

Mr. MONAGAN. Thank you, Mr. Jacobs.

We are not used to receiving blessings. Usually what we receive is in another category. This, therefore, is a welcome experience.

As I understand the text of this amendment, since the Polish program was terminated on March 31, 1966, this would extend it to March 31, 1968. It does not permit the filing of any new claims?

Mr. JACOBS. That is correct.

Mr. MONAGAN. It simply would mean that any claims which previously had been timely filed could be prosecuted, providing there were new evidence or something of that sort?

Mr. JACOBS. As I stated in this particular case of this woman, she had filed but evidently 2 or 3 days beyond the March 3, 1966, date.

Mr. MONAGAN. Under your amendment she couldn't come in.

Mr. JACOBS. She had already filed.

We are asking for an extension of those who had filed claims, American citizens only, who had filed claims 2 or 3 days after the expiration of—

Mr. MONAGAN. That is the point I want to make clear. I understood from what you said that this would not permit the filing of new claims. The way the language is, the Commission shall "complete its affairs" in connection with the settlement of United States-Polish claims, should "complete its affairs" not later than March 31, 1968.

That doesn't specifically say that any new claims could be filed. It is one consideration if you are simply permitting existing claims to be prosecuted to effect, so to speak. It is another thing if you are permitting new claims to be filed.

Mr. JACOBS. The problem had been with a lot of these people that they weren't aware that it was expiring, that the final date was March 31, 1966.

Mr. MONAGAN. Whatever the problem was, what I want to know is what in your contention this covers. You indicate that claims which have not previously been filed could now be filed?

Mr. JACOBS. Until March 31, 1968.

Mr. MONAGAN. It is opening it up for the filing of claims as well as for the prosecution of existing claims?

Mr. JACOBS. I wouldn't want to hamper, of course, in this proposed amendment to H.R. 9063, I wouldn't want to hamper in any way those who may have filed up to March 31, 1966, and had not been able to get the necessary evidence as required.

Mr. MONAGAN. Of course you wouldn't hamper them, because to the extent that they were able—suppose they had new evidence or something like that. They could, if the affairs were to be reopened, probably go ahead.

Mr. JACOBS. This is one of the conditions. Some of them have new evidence and others feel they can get it now because there is more conduciveness on the part of Poland and Germany to assist them.

Mr. MONAGAN. And also, of course, the amount of the fund is set, subject to the annual payments of the Polish Government, so then to the extent that these new claims were accepted, they would reduce the per capita share of the claimants whose claims have already been approved. Is that not so?

Mr. JACOBS. As I mentioned in my report as we gather the figures, it would not exceed \$10 million and would bring it down to 35 percent of the total amount that would be returnable instead of the 40.

Mr. MONAGAN. It would be about \$40 million, \$2 million a year for 20 years, and these new claims would be estimated to be how much?

Mr. JACOBS. Close to \$10 million.

Mr. MONAGAN. It would be 25 percent.

Thank you very much, sir. We will be glad to consider this.

Mr. JACOBS. Thank you, sir.

Mr. MONAGAN. The next witness is Mr. D. J. Casarella, vice chairman, Bulgarian Claims Committee.

STATEMENT OF D. J. CASARELLA, VICE CHAIRMAN, BULGARIAN CLAIMS COMMITTEE, NEW YORK

Mr. CASARELLA. Mr. Chairman, I am Donny J. Casarella, and I am the vice chairman of the Bulgarian Claims Committee, a committee properly registered in accordance with the Lobbying Act in both Houses of Congress and which committee was organized in order to protect the interests of American claimants who lost their property through nationalization and confiscation measures of the Bulgarian Government.

The Bulgarian Claims Committee has authorized me to present its views before this committee in connection with H.R. 9063, 90th Congress, 1st session. This bill is an omnibus bill which contains, among other things, provisions with regard to the additional sum of \$400,000 which has been accepted, pursuant to a claim settlement agreement, by the U.S. Government in full payment and settlement of claims of American citizens for losses suffered in Bulgaria.

I respectfully submit that this executive agreement between the United States and Bulgaria represents a classic example of how the interests of American citizens are sacrificed for political expediency and in order to achieve friendly relations with countries behind the Iron Curtain.

By this agreement the United States accepted a lump sum of \$3,543,398 as full and final settlement of its claim against Bulgaria, in which lump sum were included vested Bulgarian assets in the United States in the value of \$3,143,398, so that the Bulgarian Government paid only an additional sum of \$400,000, payable in installments of \$200,000 each on July 1, 1964, and July 1, 1965. The same procedure was followed earlier by the agreement of the United States concluded on March 30, 1960, with Rumania.

Mr. MONAGAN. We will take a short recess.

(Whereupon, a short recess was taken.)

Mr. MONAGAN. Please continue, Mr. Casarella.

Mr. CASARELLA. In return the United States waived (1) all claims falling within article 23 of the treaty of peace with Bulgaria, article 24 and 25 of the treaty of peace with Rumania, and (2) all claims falling within the provisions of the settlement agreements without regard to whether the claimants are compensated pursuant to U.S. legislation. Concerning the claims against Bulgaria, this means that the 217 awards which were previously allowed to American claimants by the Foreign Claims Settlement Commission in a total amount of \$6,571,825 (including \$4,684,187 in principal and \$1,887,638 in interest) have to be considered fully settled by the additional payment of \$400,000. This \$400,000 is not to be devoted solely to the satisfaction of these claimants, but, according to H.R. 9063 as appears in section 8, it will also cover the claims of all new claimants whose property was taken between August 9, 1955, and the effective date of the United States-Bulgarian Claims Agreement of July 2, 1963.

According to the bill, these new claimants will receive the same quotas the previous claimants received, and the balance will be distributed equally among all claimants, whether earlier awardees or new claimants.

The Bulgarian Claims Committee wishes to submit its objections, because we consider that pursuant to the provisions of the peace treaty with Bulgaria, and the International Claims Settlement Act of 1949, as amended, and Public Law 285, 84th Congress, the new executive agreements with Rumania and Bulgaria, by waiving the rights of those awardees who received less than the full amount of their award and who, in accordance with the respective treaties of peace with Rumania and Bulgaria and the express provision of an act of Congress to claim the unpaid balance of their claim against the Bulgarian and Rumanian Governments respectively violated the constitutional rights of U.S. citizens. In this respect I wish to call to the committee's attention section 315 of Public Law 285, 84th Congress, in which Congress provides as follows:

Payment of any award made pursuant to Section 303 or 305 shall not, unless such payment is for the full amount of the claim, as determined by the Commission to be valid, with respect to which the award is made, extinguish such claim, or be construed to have divested any claimant, or the United States in his behalf, of any rights against the appropriate foreign government or national for the unpaid balance of his claim or for restitution of his property. All awards or payments made pursuant to this title shall be without prejudice to the claims of the United States against any foreign government.

Contrary to this provision, article I, section I, of the United States-Bulgarian Claims Agreement of July 2, 1963, expressly states:

The Government of the United States of America and the Government of the People's Republic of Bulgaria agree that the lump sum of \$3,543,398 as specified in Article II of this Agreement will constitute full and final settlement and discharge of the claims of nationals of the United States of America, whether natural or juridical persons, against the Government of the People's Republic of Bulgaria which are described below.

By such a provision the U.S. Government deprived its citizens of their rights against the Government of Bulgaria. That represents simply a taking and confiscatory measure without due process of law.

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.

But it should be taken into consideration that these new claims against Bulgaria, which according to our information amount approximately to \$700,000 to \$800,000; if they have to be paid at the same percentage as the earlier awardees, who received their award in accordance with Public Law 285, 84th Congress, the whole available Bulgarian fund of \$400,000 would be completely exhausted in favor of the new prospective claimants.

The same will occur with the earlier Rumanian awardees, who got their award on the basis of the same Public Law 285, 84th Congress, as the Bulgarian, and by paying to the new prospective claimants against Rumania the same percentage as the earlier awardees, the available fund of \$2,500,000 will be completely exhausted.

In both cases, there will be nothing left over for the old awardees.

On the other hand, the executive agreements between the United States and Bulgaria of July 2, 1963, and the United States and Rumania of March 30, 1960, waives the rights of the awardees to pursue their claims for the unpaid balance against Rumania and Bulgaria, although these rights were expressly given to them in Public Law 285, 84th Congress, passed by Congress and Senate, and was also expressly stated in each and every decision of the Foreign Claims Settlement Commission.

Therefore, if these vested rights were waived without any compensation to the awardees, this act would definitively represent a confiscatory measure, like those measures against which the U.S. Government itself is fighting in foreign countries.

If, for reasons of political expediency such forfeiting of rights was deemed necessary, the executive branch should have asked Congress for necessary appropriation to compensate awardees for unpaid balance of the awards adjudicated by the Foreign Claims Settlement Commission under Public Law 285, 84th Congress.

Therefore, I respectfully submit that a provision should be enacted for the full compensation of the unpaid balance of our awards. Those Americans whose property was taken between 1955 and the effective dates of the above cited executive agreements also have the right to compensation and should receive payment in the same manner as other claimants.

I respectfully submit a proposed amendment in the present bill to correct the inequities caused by the executive agreements implemented by the provisions of the present bill. If Congress for any reason does not enact these amendments and provide the necessary appropriations, we are submitting a bill by which jurisdiction would be conferred on the Court of Claims to determine and adjudicate the claims.

I wish to express my thanks for the opportunity to present the views of the claimants for whom I appear.

(Additional information is as follows:)

PROPOSED AMENDMENT TO H.R. 9063, 90TH CONGRESS, AMENDING THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

I. Paragraph 12, on page 9 now reading:

"(12) Section 310, title III, is amended by adding at the end of subsection (a) thereof the following paragraph:

"(6) Whenever the Commission is authorized to settle claims by the enactment of paragraph (4) of section 303 of this title with respect to Rumania and Bulgaria, no further payments can be authorized by the Secretary of the Treasury on account of awards certified by the Commission pursuant to paragraph (1), (2), or

(3) of section 303 of the Bulgarian or Rumanian claims fund, as the case may be, until payments on account of awards certified pursuant to paragraph (4) of section 303 with respect to such fund have been authorized in equal proportion to payments previously authorized on existing awards certified pursuant to paragraph (1), (2), and (3) of section 303."

Should read as follows:

"(12) Section 310, title III, is amended by adding at the end of subsection (a) thereof the following paragraph:

"(6) The Secretary of the Treasury shall be authorized, from the new funds coming into the Bulgarian-Rumanian claims fund pursuant to the terms of the claim settlement with Rumania of March 30, 1960 and with Bulgaria of July 2, 1963, to pay the unpaid balance of the awards which were previously certified to the Treasury Department by the Commission pursuant to Paragraph (1), (2) and (3) of section 303 of the Bulgarian or Rumanian claims fund until the above described new funds have been exhausted."

II. A new subparagraph (7) should be added to Section 310, Title III, subsection (a), reading as follows:

"(7) Whatever balance shall remain unsatisfied of the principal and interest previously awarded by the Foreign Claims Settlement Commission on the basis of Public Law 285, and whatever the said Commission, authorized to settle claims by the enactment of Paragraph (4) of section 303 of this title with respect to Rumania and Bulgaria, shall award to new claimants and pursuant to paragraph (4) and section 303, shall be covered out of separate appropriations to be provided by Congress, due to the fact that claimants rights to unpaid balances have been waived by the claims settlement agreements made with Rumania on March 30, 1960, and with Bulgaria on July 2, 1963."

(Mr. D. J. Casarella, in the name of the Bulgarian Claims Committee, presented the following bill to the Committee on Foreign Affairs:)

A BILL To authorize claimants, who received awards by the Foreign Claims Settlement Commission on the basis of Public Law 285—84th Congress against Bulgaria and Rumania, to bring suit against the United States to obtain relief for the unpaid balance waived by the United States-Bulgarian Claims Agreement of July 2, 1963 and the United States-Rumanian Claims Agreement of March 30, 1960.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statutes of limitations, lapse of time or any prior decision of any Court of the United States, jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine and report to the Congress concerning the claims of the United States nationals against the United States arising out of the claims settlement agreements of Bulgaria dated July 2, 1963 and of Rumania dated March 30, 1960, providing for the discharge or undertaking by the United States not to pursue claims of United States national against Bulgaria and Rumania for the unpaid balance of awards rendered by the Foreign Claims Settlement Commission of the United States pursuant to Public Law 285—84th Congress. Proceedings with respect to such claims may be instituted not later than one year after the date of enactment of this Act.

Mr. CASARELLA. I would like to read my short supplementary statement.

The State Department, in Mr. MacArthur's letter of September 14, 1966, to Congresswoman Kelly, which letter appears on pages 93 to 97 of the hearings of this subcommittee on S. 1935, states that a basis might exist for claiming reimbursement from the United States if the United States deprived a claimant of a course of action against a foreign government.

It is beyond doubt that courses of action have been eliminated against Bulgaria by the United States-Bulgarian agreement. I have submitted to this subcommittee in my testimony on S. 1935 a letter from the Bulgarian legation in Washington which demonstrates that this is the case. I do not doubt that this is also true as to Rumania. A right to reimbursement is based only on a legal wrong and this Mr. MacArthur's statement in effect admits that such a wrong may have been committed.

The State Department claims that the United States-Bulgarian agreement is the best that it could obtain. If this is so, it was for political reasons only and not economic reasons. Economically, it is clear that Bulgaria had the ability to pay the full amount of the unpaid balance of the awards plus the claims of the new claimants covered. Bulgaria has no shortage of foreign exchange as is indicated by its trade with foreign countries other than the United States.

The Congress should take steps to assure that if claimants are hurt by the State Department's policy toward Bulgaria and Rumania as shown by the unfair United States-Bulgarian and United States-Rumanian agreements, such claimants should be reimbursed by the U.S. Government.

Mrs. KELLY. Mr. Casarella, you are opposed to the present provisions of the bill as they affect the Bulgarian claims program, is that correct?

Mr. CASARELLA. Yes.

Mrs. KELLY. You feel that the entire amount recently paid by Bulgaria, the \$400,000, should be distributed among those claimants whose claims arose before 1955? Is that correct?

Mr. CASARELLA. Yes.

Mrs. KELLY. You also feel the United States had no right to accept the \$400,000 as full and complete settlement of these claims?

Mr. CASARELLA. Yes.

Mrs. KELLY. Against Bulgaria, is that correct?

Mr. CASARELLA. No.

Mrs. KELLY. Aren't the provisions of our agreement with Bulgaria similar in this respect to the provisions of other claim agreements?

Mr. CASARELLA. There is a difference.

Mrs. KELLY. And you want the U.S. Congress to appropriate funds from the U.S. Treasury to pay in full the claims of American citizens who lost property in Bulgaria?

Mr. CASARELLA. Yes; because that is not our fault.

Mrs. KELLY. Has the Congress ever taken such action with respect to claims against other countries?

Mr. CASARELLA. It is in the Japanese treaty and in the bill of 1821. There is a precedent where the U.S. Government has compensated for these claimants whose rights have been foregone.

Here, the administration has, contrary to the stipulation of the existing law 285, made a settlement and foregone our rights to collect from Bulgaria.

Mrs. KELLY. Mr. Frelinghuysen.

Mr. FRELINGHUYSEN. No questions.

Mrs. KELLY. Mr. Monagan.

Mr. MONAGAN. No questions.

Mrs. KELLY. I appreciate your testimony.

Mr. Panzer is our next witness.

Knowing Mr. Panzer, I know he will do an excellent job in presenting his statement.

STATEMENT OF IRVING R. M. PANZER, ATTORNEY, WASHINGTON, D. C.

Mr. PANZER. He is going to be very brief.
I appreciate this opportunity—

Mr. MONAGAN. Maybe we should accept the statement for the record if he is going to summarize it.

Mr. KELLY. He is going to submit it.

You are going to summarize it now?

Mr. PANZER. Yes, briefly.

(The statement is as follows:)

STATEMENT OF IRVING R. M. PANZER, WASHINGTON, D.C.

Madam Chairman and members of the subcommittee, I appreciate the opportunity to appear before you this afternoon on H.R. 9063. I will be brief. My interest is limited to the Rumanian sections of the bill, primarily section 6 on page 4. Together with this section must be read section 8, on page 5, also dealing with Rumania, and sections 11 and 12 on pages 8-9. I am restricting my remarks to those sections.

I am an attorney in private practice in Washington, D.C., and I represent persons who hold awards under the old Rumanian Claims Program which began in 1955 and ended in 1959. The money that was used to pay awards under that program had been obtained from the seizure, by our Government, of certain Rumanian assets here that were blocked at the outbreak of World War II. This money was not sufficient to pay the awards in full—in fact, only about 33⅓% has been paid on the principal.

In 1960 the Rumanian Government concluded an Agreement with the United States under which the Rumanians were to pay to the United States the sum of \$2,500,000.00 in five equal installments beginning in 1960. This was done, and the full \$2,500,000.00 has been sitting in the U.S. Treasury since 1964. All of this money was to be paid out to (1) all persons holding awards under the old Rumanian Claims Program, as additional compensation on those awards, and (2) any new claimants who may receive awards for nationalization of their property by Rumania during the period 1955-1960. It is not believed that there are many, if any, of this second category, and so essentially the recipients of this \$2,500,000.00 are the old awardholders, such as my clients. This money, then has no other purpose than to be distributed to those people as a further payment to them.

Seven years have passed since the Rumanians began to pay in the \$2,500,000.00, and three years have passed since all of that amount was fully paid in, yet not a cent has been paid out to those who are waiting for their money. In fact, not a single step has been taken along that road. Although the \$2,500,000.00 is indeed sitting in the Treasury, it appears that a technical amendment is thought to be necessary in order to transfer that money from the General Fund to the Rumanian Claims Fund. That is the sole purpose of section 6 of H.R. 9063, which deals also with Bulgaria. Also, it seems that an authorization is necessary in order to enable the Commission to hear and decide the claims of persons whose property may have been taken during the 1955-1960 period. That is the sole purpose of section 8 of the bill. Sections 11 and 12 of the bill then provide some administrative machinery. In other words, what we have here is mere implementation of the distribution of the money now sitting in the Treasury.

My people, and many others like them, have been waiting years for their money. Some of these awardholders have died while waiting. There is no substantive reason why this single piece of legislation could not have been passed years ago, even as far back as 1960, and the money could all have been paid out in 1964, when the last Rumanian payment was made. It is wrong; it is unfair; it is shocking; it is a disgrace.

It has been the misfortune of this simple implementing piece of legislation that it has never come up to Congress alone, on its own merits. It has always come up as part of an omnibus bill, like H.R. 9063 which is before you today—a bill which gathered together a number of items pertaining to the work of the Foreign Claims Settlement Commission. From a practical legislative point of view, that has certainly seemed to be a wise way to go at it, rather than submit separate bills on each of a number of minor items. But the Rumanian provisions, which I believe to be noncontroversial, have suffered from being lumped together with controversial items, like last year's Polish provision, and year after year they have gone down the drain because some other portion of the entire omnibus bill had opposition. It is a kind of death by contamination.

Now here we are again as part of an omnibus bill. I urge the passage of the entire bill as speedily as possible. If, however, the passage of the entire bill is doubtful, then I urge that the Rumanian (and Bulgarian) provisions be taken out and made

a separate bill, so that for once, in all the years since 1960, these provisions can be heard on their own merits.

Thank you.

Mr. PANZER. My interest is limited solely to those provisions dealing with the Rumanian fund.

I am an attorney in private practice. I represent people who hold awards under the old Rumanian claims program. The money that was used to pay those old awards, as you recall, was money from seized Rumanian assets years ago. That money has gone only about one-third of the way on the principal. The Commission says 35 percent.

In 1960 the Rumanians came along and made a new agreement under which they gave additional money, \$2,500,000. It is sitting in the Treasury and has been sitting there for years. That money is for two purposes. One is to pay the old awardholders like my clients; the second is to pay any new claimants whose claims may have arisen between 1955 and 1960. It is not really thought that there are many, if indeed there are any, of the second class. Therefore it is essentially additional compensation for the first class. That is the only purpose of this money—to be distributed to these old awardholders.

It has been 7 years since the Rumanians began to pay this money, 3 years since they completed the payments, and yet not a cent has been paid out, not a step has been taken for what is said to be a mechanical reason. Why can't they pay the money out? They said that it is sitting in the general fund of the Treasury and it takes an implementing piece of legislation to put it into the Rumanian fund. All right. I will go along with that.

They also say that to adjudicate these new claims, if there are any, takes another provision. I will go along with that.

The simplest kind of legislation. Why hasn't this legislation, which is simple, which is uncontroversial, which nobody has ever opposed, why hasn't it ever been passed? People have died waiting for this money, a good many of them.

The reason it has never been passed is that it has always come up here as it is now as part of an omnibus bill. Nobody has ever objected to these provisions but always somebody seems to object to something else. We have suffered a kind of death by contamination every year.

I understand the interest of the administration in packaging up in a single omnibus bill a number of what they consider minor items. That is sound administrative practice. It was, until some of us began to be hurt by being included in an omnibus bill.

At this time my position is this—if this present bill which I support fully is going to go through, if there is no trouble, then I do support the bill, I do urge its passage. If, however, there is any trouble on some other provision of this bill, if this is going to hurt our people again for no reason that concerns them, if these rather old people who are dying, waiting for the money, which is theirs and theirs alone, simply awaiting distribution, if they are going to be hurt by something else, then I say it is time to take these Rumanian provisions out of an omnibus approach, put them into a little piece of legislation all by itself, let it come up here on its own merits and let the committee consider it.

I support the bill as it stands because everything in it is all right with me. If there is any trouble with the bill I urge the subcommittee to draft up a separate bill limited to the Rumanian considerations and pass that as speedily as possible.

Mrs. KELLY. Any questions, Mr. Frelinghuysen?

Mr. FRELINGHUYSEN. Mr. Panzer has made his points and I have no questions.

Mr. MONAGAN. The provisions of this bill would meet all your requirements?

Mr. PANZER. Yes. My only possible objection might be that we would be contaminated by somebody objecting to another part of the bill. I support the provisions as they are.

Mrs. KELLY. Mr. Panzer, do you feel that those who qualified under the Bulgarian claims program and have not received 100 percent on their awards, should be reimbursed before we begin looking for new claimants?

Mr. PANZER. I have no actual knowledge of the Bulgarian thing since I am not really interested.

Mrs. KELLY. Do you feel that everybody who has been given an award should receive 100 percent on the dollar insofar as this is possible?

Mr. PANZER. In this particular case the money has been paid in and it has no other purpose than to be distributed to these people. Everybody concedes that. That is really its only purpose. Everybody is very apologetic about why the money has not been distributed.

Mrs. KELLY. What I am trying to say is this: there are two major issues in controversy in the bill before us: the Italian and the Polish claims provisions. Then there is some controversy regarding Bulgarian claims. Now, taking the Polish case first, would you recommend that funds received by the U.S. Government to settle those claims be paid to those who have already qualified—or should this program be reopened?

Mr. PANZER. I feel that is a controversial area. I have tried to limit my testimony to the most noncontroversial.

Mrs. KELLY. As an outstanding lawyer, you could give us your opinion.

Mr. PANZER. I would prefer not to comment. We have been so hurt by being embroiled with other people's troubles that I would not like to get into it.

Mrs. KELLY. In other words, you want action?

Mr. PANZER. Yes.

Mrs. KELLY. Thank you very much, Mr. Panzer.

(The following was subsequently submitted for inclusion in the record:)

LAW OFFICES OF IRVING R. M. PANZER,
Washington, D.C., June 30, 1967.

HON. EDNA F. KELLY,
Chairman, Subcommittee on Europe, Committee on Foreign Affairs, House of Representatives, U.S. Capitol, Washington, D.C.

DEAR MRS. KELLY: At the conclusion of my testimony on June 27 on H.R. 9063, at which I limited my remarks to the Rumanian provision, you asked me several questions about other matters that had been touched in earlier testimony. Some of those matters are not now in the bill and would, of course, require amendment of the bill. I was attempting to restrict my remarks to the Rumanian provisions, which are essential, and so I politely declined to comment on any other matters.

On reflection, I think I should make one thing clear. I support the present bill and I am opposed to any amendment of this bill whatsoever. As I said in my testimony and in my prepared statement, it has been the misfortune of the Rumanian provisions always to suffer by reason of some other controversy which then dragged down the entire omnibus bill. That is just what will happen now if

any amendments are attempted. I need not repeat what I said at the hearing about the injustice of keeping these Rumanian awardholders waiting, year after year after year, for the enactment of these simple, noncontroversial, implementing provisions because you know it so well. It is not fair to do it to these people once again.

As you put it so well, at the close of my appearance before the committee: "What you want is action". That is exactly correct. We need action, or the people entitled to this money will die (as many have) still waiting for it. I thus favor the present H.R. 9063 as it stands, and I am vigorously opposed to any amendment of any kind.

I should appreciate it if this letter could be made part of the record of the hearing.

Very truly yours,

IRVING R. M. PANZER.

Mrs. KELLY. We will next call on Mr. DePolo.

STATEMENT OF JOSEPH DePOLO, JERSEY CITY, N.J.

Mr. DePOLO. Madam Chairman, I have no statement. I just want to say a couple of words.

Speaking of the Italian claims program, and the money that is left over, I say that it would be unfair and unjust if this money is not distributed to people who lost property in Italy.

I am a victim and am supposed to be protected by law. I have a right to compensation for damages suffered through Italian war action and I should be compensated on the basis of Public Law 85-604. In other words, there is no reason to strike out the provision concerning these Italian claims from the bill. That I could not understand.

If you want to take this thought into consideration, that is all I have to say.

I thank you.

Mrs. KELLY. Any questions, Mr. Monagan?

Mr. MONAGAN. I am just reading the testimony of the last hearings that we had.

I think most of it is in the record. So I have no questions at this time.

Thank you.

Mrs. KELLY. You approve of this bill as it stands, then, is that correct?

Mr. DePOLO. Yes.

Mrs. KELLY. You want the \$1 million in the Italian claims fund distributed to the people as proposed in this bill?

Mr. DePOLO. Yes, as soon as possible.

Mrs. KELLY. Thank you for coming today.

Dr. Paul Neuberger is next.

Dr. Neuberger, you have a rather long statement. Are you going to put it in the record and summarize it for us?

STATEMENT OF DR. PAUL NEUBERGER, NATIONAL CONFERENCE FOR EQUALITY UNDER CLAIMS LEGISLATION

Dr. NEUBERGER. My statement comprises only the first few pages. The balance of the paper submitted consists of enclosures. Lines 13 through 25 should read—

Mrs. KELLY. We may not have time to listen to the entire statement. We are going to be called to the floor of the House to vote shortly. We also have one or two more witnesses who want to testify today.

Dr. NEUBERGER. Madam Chairman and members of the committee, I wish to add a few words to the statement you just heard from Mr. DePolo concerning the provision referring to the Italian claims fund in the present bill, H.R. 9063. I have been authorized to present before this honorable subcommittee the views of the National Conference for Equality Under Claims Legislation, which is a large organization comprising many nationwide organizations, mostly minority groups with millions of members who are trying to combat the inequities in claims legislation.

The question of equality of American citizens in claims legislation has been violated by the earlier decision to turn over the remaining balance of the Italian claims fund to the Treasury Department, instead of distributing it to the claimants who were entitled to get compensation out of these funds by the express provision of Public Law 604 of the 85th Congress.

According to the Lombardo agreement, by which the Italian claims fund was established, it was provided that the money be used " * * in application to the claims of U.S. nationals arising out of the war with Italy and not otherwise provided for." It is clear that these funds should be used solely for the satisfaction of claims of U.S. citizens against Italy.

There is no use in giving the residual balance of the Italian claims fund, which is over \$1 million, to the war claims fund which has enough money and which is already being distributed; so that this \$1 million will not be of much use to the war claims fund, whereas, for the claimants who are poor working people, the compensation which they might receive from this fund would mean everything.

Mrs. KELLY. If I understand you correctly, you are in complete agreement with the bill as it stands.

Dr. NEUBERGER. Yes. But we were prompted to testify today and present our views because, in the last session of this honorable subcommittee, this provision concerning distribution of the Italian war claims fund was deleted, and all the claimants who turned to us for help were worried that it might happen again.

I therefore appeal to you to leave this provision in the present bill as it is. I wish to add that these people were very much embittered also when they learned that two private bills were passed in the last session of the Senate to satisfy two large claimants; and I feel that, while the large claimants will be satisfied, the small claimants, like Mr. DePolo and others, would get nothing.

The aforesaid facts are the essence of what I wanted to present today.

In conclusion, I wish to say only that I submitted an amendment with my statement in order to preserve the principle that the Italian claims fund should be used for compensation of claimants only, and if any balance should still remain, it should be distributed among claimants who became citizens after August 9, 1955.

Mrs. KELLY. Any questions?

Mr. MONAGAN. No.

Mrs. KELLY. I appreciate your appearance so much. Your statement will be placed in the record in full.

(The prepared statement of Dr. Neuberger is as follows:)

Madam Chairman and members of the committee, my name is Paul Neuberger and I am a member of the New York Bar with offices in New York City, specializing in international private law.

On August 5, 1965, I testified before the Senate Sub-Committee on behalf of a group of clients who have claims against Italy, and on August 9, 1966 I testified before the House Foreign Affairs Committee, in connection with Bill S-1935, which is presently under consideration before this Honorable Sub-Committee as Bill H.R.-9063.

I have again been requested by the National Conference for Equality under Claims Legislation, which was organized by a group of large organizations comprising many millions of members throughout the United States to protect the rights of American citizens against inequities in claims legislation, to testify before this Committee. This National Conference is composed of the following organizations, among many others: Conference of Americans of Central-Eastern European Descent, which Conference is a frame organization comprising the ten greatest national minority organizations; the American Jewish Congress; American Jewish Committee; The American Federation of Jews from Central Europe; The Association of Czechoslovakian Jews; The Club of Polish Jews.

As Acting Chairman of this National Conference, I wish to restrict my remarks to the provision referring to the residual balance in the Italian Claims Fund.

The reason why the National Conference for Equality under Claims Legislation wishes to present its views to this Committee with regard to this provision of the bill is the tendency of the administration to advocate the turning over of these remaining funds to the Treasury Department and to exclude claimants who, by the express provisions of Public Law 604-85, are eligible to participate in the distribution of these funds. This right was therefore denied to them until, on the suggestion of a group of Senators headed by the Chairman of the Foreign Relations Committee, the Honorable J. W. Fulbright, attention was called to the fact that this exclusion of claimants represents a great injustice which should be corrected.

Madam Chairman, towards the end of the last session, your Sub-Committee again proposed that all the language which would have reopened the Italian Claims Program should be struck from the Bill, and that the money remaining in the Italian Claims Fund be transferred to the War Claims Fund.

The present Bill contains a provision for distribution of the remaining balance of this Fund to claimants who are legally entitled to participate in the distribution.

The National Conference wishes to call the attention of this Honorable Committee to the strong arguments which were repeatedly presented in the last few years to show that the policy to which the Department of State so strongly adheres is obsolete and that there is no principle of international law which could be applied to the question of distributing funds located in this country, distribution of which is a matter of domestic legislation.

Many years ago, a petition prepared by the National Conference was submitted by the Conference of Americans of Central-Eastern European Descent to correct these inequities and to have a hearing in Congress on this question, which is also a question of constitutional rights. The State Department sent a reply, to which a counterargument was submitted by the attorney for the Conference, Samuel Herman, Esq.; but no hearing was held and no action was taken.

The National Conference for Equality under Claims Legislation considers that the policy which the State Department has consistently pursued in the past is one involving the constitutional rights of American citizens. It is question of the principle enunciated in the United States Supreme Court decision in the matter of *Schneider v. Rusk* of May 18, 1964, *U.S. 845 Ct.*, which stated:

"We start from the premise that the rights of citizenship of the native born and of the naturalized persons are of the same dignity and are coextensive."

One of the member organizations of our National Conference, the Conference of Americans of Central-Eastern European Descent, asked us to submit to this Honorable Sub-Committee, a compilation of the arguments and citations which refer to the afore-mentioned problem. I am therefore attaching it to my statement for your kind perusal.

The policy followed by the State Department has been one of continuously proposing that the balance of the Italian Claims Fund of \$1,088,000, be turned over to the War Claims Fund, although this sum is negligible and of no use to this Fund, especially in view of the fact that the War Claims Fund itself amounts to much more than 250 million dollars which is in the process of being distributed to awardees of the War Claims Program.

It is really difficult to understand why this restrictive and discriminatory policy should be accepted with respect to the balance of the Italian Claims Fund, except that the State Department wishes to annul the rights given to claimants by Public Law 604-85, in which Congress clearly stated why it considers that the eligibility

of claimants should be extended, and also stated in the report of the Hon. Senator Russell B. Long, as follows:

"We find that we have funds over and above those necessary to take care of these claims (claims of those who were American citizens at the time of loss), which funds we shall proceed to devote to satisfy claims of those who became American citizens subsequent to the time the property was seized. * * *"

"Inasmuch as Italy has been more liberal than have most other nations, in making such funds available, we have provided that after those who have other claims have been satisfied, insofar as funds remain, they could be made available to American citizens who acquired American citizenship subsequent to the cutoff date * * *."

"If we had some settlement which was similar to the Italian settlement, which is unique in many respects, in that the Italian Government settled in effect 100 cents on the dollar for American claimants, and made available over and above that amount for any other liabilities which might be outstanding, then we could make those funds available to other citizens."

We can rightly ask why these views which led to the enactment of Public Law 604-85 should now be completely disregarded, as its reasoning applies in every respect also to the present residual balance of the Italian Claims Fund.

May I finally point out that the claimants eligible according to the afore-cited Public Law 604-85 and according to paragraph 9, page 5 of the present bill H.R. 9063, are almost all poor working people, old retired men and women, for whom this compensation would mean a great deal, and who are disappointed that other claimants in the same category as they are received 100% compensation under the original Italian Claims Program, for the sole reason that they filed their claims with the Foreign Claims Settlement Commission in the regular filing period for Italian claims, at which time these claimants were not eligible according to the law.

This is a great inequity which should be corrected. It is understandable that these people are embittered, particularly on learning about two large claims for which private bills were filed and which last year passed in the Senate Committee. They feel that there will again be discrimination against them in the use of these funds.

The National Conference for Equality under Claims Legislation appeals to this Honorable Committee not to change the proposed provision of the present bill concerning the Italian Claims Fund.

In the event that after distribution there will still remain some undistributed funds, I am resubmitting an amendment according to which a small number of claimants who are American citizens and are not eligible according to Public Law 604-85, should benefit from this balance, if any balance remains. I wish to say that this should be done only if and when there is an undistributed balance after old claims, in accordance with the provision contained in the present bill H.R. 9063, have been fully paid.

With regard to this amendment, it should be emphasized that the Lombardo Agreement by which the Italian Claims Fund was established, provided that the money be used "** * * in such manner as the United States of America may deem appropriate, in application to the claims of United States nationals arising out of the war with Italy and not otherwise provided for.*" Needless to say, the only restriction in the handling of these funds by the United States is—that they *may be used solely* for the satisfaction of claims of U.S. citizens against Italy. This is the reason this amendment is being submitted.

I wish to add that it is also the conviction of the members of the National Conference for Equality under Claims Legislation that the constitutional rights of naturalized citizens should be preserved by not discriminating against them as to date of their naturalization, if claims funds are being distributed which are located in the United States and which are subject to domestic legislation.

I respectfully submit these remarks for your favorable consideration, and I wish to thank you for permitting me to present my views to your Committee, as well as the views of the National Conference for Equality under Claims Legislation.

CONFERENCE OF AMERICANS OF CENTRAL-EASTERN EUROPEAN DESCENT,
NEW YORK, N. Y.

MEMORANDUM IN SUPPORT OF A REAPPRAISAL OF THE NATIONALITY REQUIREMENTS IN UNITED STATES CLAIM SETTLEMENT POLICY AND IN UNITED STATES FOREIGN AND WAR CLAIMS LEGISLATION

(Requesting the elimination of the United States restrictive policy of denying equal treatment to Americans who became U.S. nationals subsequent to suffering damages in consequence of war, Nazi or communist acts)

The Conference of Americans of Central and Eastern European Descent submitted in 1958 a petition to the Congress of the United States proposing a policy of full inclusion of naturalized citizens in claim settlements.

The conclusion of the petition reads:

"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, 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 the date of the enactment of the statute, as the proper case may be. Sound policy requires that the so-called "continuity of nationality" principle (which in the past required continuous citizenship from the date of loss until presentation of the claim) 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 to all citizens of the United States.

C.A.C.E.E.D., opposing denial and disparagement of equal protection of claims of naturalized citizens in USA Foreign Claims and War Claims in actual and proposed legislation, submits evidence shedding new light in theory and practice in the field of international claims settlements and the trends of bringing international law into accordance with the changed extraordinary circumstances of our time.

In a cognate question the Committee on Judiciary proposed virtually an extension of the persecutee provision of Public Law 857-81st Congress regarding vested assets to a "new" category of naturalized citizens former enemy aliens who immigrated after World War II, stating in the Conclusion of the Senate Report No. 2358, 85th Congress, 2d Session Senate Calendar No. 2411 on Payment of War Damage Claims against Germany and Return of Vested Assets to American citizens, August 13, 1958 (page 15 of the report).

"Furthermore, it seems inconsistent, so far as the committee is concerned, to make a grant of citizenship to an alien and to deny that person full rights of citizenship * * *. In effect it would constitute second class citizenship."

Changing its formerly rigid position the State Department's former Assistant Secretary of State Brooks Hays also said in a postscript to his letter of July 21, 1961 to Senator Alan Bible: (Page 59 War Claims and Enemy Property Legislation House Hearings Sub-Committee of Interstate and Foreign Commerce)

"The plight of the 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."

Congress included these "new" citizens in the benefits of the law. In this case even to former enemy aliens, equal treatment was not at all denied.

Every single word of the above statements applied and continues to apply to the general claims situation of another group of "new" Americans with claims for all kinds of loss, damages, takings caused by Germans, War or its consequence, the communist takeover. In spite of the established facts by these statements and the following elimination of discrimination against the "new" citizens claiming return of vested assets there still remains the other group of "new" Americans junior in consideration, left in jeopardy of second class citizenship.

The principle of equal protection of the law is indivisible and it is inconsistent with that very principle to limit advocacy and inactment of correcting legislation to restoration of equal treatment only to one selected group of naturalized citizen with vested assets claims and to deny in a cognate question equal participation in distribution of claim settlement funds to "new" citizen.

It is suggested, in order to avoid that legislation be construed upon unrealistic policy and wrong, outdated and questionable assumptions of international law or allegations of inadequacy of funds causing encroachment of the fundamental

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.

The Draft was prepared by Harvard Professors, Louis B. Sohn and R. R. Baxter, with the help of a distinguished Advisory Committee of eminent professors and outstanding lawyers of international law. The Committee consisted of the following persons: William W. Bishop, University of Michigan, Professor Herbert W. Briggs, Cornell University; Arthur B. Dean, Esq., The New York Bar; Professor Roger D. Fisher, Harvard Law School; Alwyn V. Freeman, Esq., Deputy Representative of the International Atomic Energy Agency, United Nations; Charles M. Spofford, Esq. of the New York Bar; I. N. B. Stokes, Esq., of the New York Bar; Professor Quincy Wright, Emeritus, University of Chicago; the late Professor Clyde Bagleton of New York University served on the Committee until his death; Professor Jessup was a Member of this Committee until he became appointed to the International Court of Justice.

Article 23 of the Draft Convention on Espousal of Claims and Continuing Nationality contains the following Paragraph 6:

"A state has the right to present or maintain a claim on behalf of a person only while that person is a national of that state."

"A state shall not be precluded from presenting a claim on behalf of a person by reason of the fact that that person became a national of that state subsequent to the injury."

PRACTICE IN FOREIGN CLAIMS SETTLEMENT

Examples of foreign treaties and legislation recognizing claims of "late nationals" are:

A. (1) The agreements between Belgium, Luxembourg, and Czechoslovakia, September 1952. (2) Agreement between Norway and Czechoslovakia, June 9, 1954. (3) Agreement between Yugoslavia and Greece, June 18, 1959. (4) Agreement between Denmark and Yugoslavia, July 13, 1959.

B. The British Foreign Compensation Orders-in-Council: (1) Concerning nationalization claims in Czechoslovakia; (2) Concerning debt claims of Yugoslavia.

C. The decree No. 61-971 of August 29, 1961, of the Government of France; dealing with claims for Nazi victims.

All these agreements and statutes allow claims of all naturalized citizens, regardless of former citizenship status at the date of loss, provided the claimants are citizens on the date of signature of agreements or of the enactment of legislation respectively, and it was noted by the United States War Claims Commission in the report to the Congress on World War II War Claims, House Document No. 67, 83rd Congress, 1st Session:

D. "in the war damage compensation laws of Australia, Austria, Belgium, Canada, Denmark, France, Malaya, Malta, the Netherlands, Norway, Switzerland, Thailand, United Kingdom, nationality is immaterial in determining eligibility of claimants."

E. Other countries might be added to such agreements as between Sweden and Japan, Egypt and England, and others.

F. Moreover, international law as reflected even in the practice of the United States-Japanese compensation Property Commission, which implemented the Allied Powers Treaty Law, provides that "junior" citizens claims were to be filed: "through the State to which he (the "new" citizen) belongs within 18 months from coming into force of the Peace Treaty."

Already in 1953, the Report of the War Claims Commission stated on the restrictive rule:

"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 is unexplained why the State Department even as late as August 1961, was unaware of the profound changes in the trend of international law, theory and practice (as shown above) admitting only a "single" agreement, (that with Czechoslovakia, Belgium and Luxemburg) and failed to inform Congress that the trend in international law and Foreign Claims Settlement practice of our time shows that claims of "new" citizens naturalized subsequent of injury are not precluded by international law and practice to be presented to a foreign state and therefore that the "junior citizens" have valid claims under international law.

When the State Department's spokesman in the hearings suggested to exclude new citizen claims from the benefits of the law by stating: "Congress might take into account who had valid claims under International Law, and who does not" he failed to recognize that the weight of the above mentioned facts of international law and practice makes it clear that:

1. Under international law the United States only, and no other State can present claims of its "new" citizen not "the country they came from."

2. The "new" citizen does have valid claims presentable under international law.

3. The statements advocating the outdated rule based on not up-to-date information and incorrect assumption of international law, deprived of the cloak of international law interpretation are now seen as the primary cause of naked discrimination in domestic legislation which by "analogy" in a vicious circle "was followed up" and grew into denial of equal treatment before the law.

4. Rigid allegations in State Department press releases and statements on claims legislation contending that international law precludes protection of claims of new citizens impairs American interests abroad and prevents any sensible and realistic codification of international law with respect to Article 23 of the Draft Convention on Espousal of Claims and Continuing Nationality which proves that the State Department's contention is untenable and gives only support to Communist governments, buttressing their arguments for recognizing an international validity of any measures of takings or nationalization by a state within its territory (even these without compensation) on the grounds that such view was in accordance with the United States Department position.

It is incomprehensible how then the State Department negotiators of foreign claims settlement equipped with the questionable exclusionary policy statements could ever expect in the negotiation that the Communists will not with pleasure refuse any suggestion to pay compensation for nationalization or other takings pointing to the restrictive United States policy statements which gives the Communists the possibility to state that the United States has no right from a legal standpoint to ask for compensation of claims of new citizens. Scrutiny of the State Department Claims Settlement Policy is imperative and it seems to be appropriate to repeat a postscript of a letter of July 21, 1961 of Assistant Secretary of State Brooks Hays to Senator Alan Bible:

"The plight of the 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."

NO PRINCIPLE WHATSOEVER PRECLUDES CONGRESS TO INCLUDE ALL NATURALIZED CITIZENS IN THE BENEFITS OF CLAIMS LEGISLATION

That fact is conceded by the State Department.

The State Department's spokesman, Mr. Gilliland, stated in the Hearings on War Claims and Enemy Property Legislation before the Sub-committee of the Committee on Interstate and Foreign Commerce, House of Representatives, on April 16, 1959 (Hearings Report pp. 121-122) and before the Senate Judiciary Sub-committee Trading With the Enemy Act, June 18, 1959 (S. Hearings Report p. 133):

"There is no principle that prohibits Congress" from including the "Junior category" of citizens, sometimes called "new" or "late" citizen, who were naturalized prior to the enactment of the law but became nationals only subsequent to injury.

Mr. Gilliland suggested that these "new" citizens should be "junior in consideration" * * * "I don't believe it would be right to put them on the same footing." "in view of the possible inadequacy of the funds it might be questionable whether they should be put on the same basis as those who were American citizens at the time of damage" * * * "The senior category should have the first right." "If the funds proved to be adequate to make distribution to them, that might be another matter."

That naturalized "junior category" citizens may be treated differently from a category of privileged "first right" citizens and holding that a right so basic and fundamental and so deeply rooted in our society as the right for equal treatment, which is one of the rights retained by the People may be infringed upon by giving way to a restrictive as well as outdated claims settlement policy used as excuse

for expediency by the State Department is an impermissible error of grave consequence causing an encroachment into a Constitutional area.

Congressman John A. Blatnik, in the Hearings of the War Claims and Enemy Property Legislation of May 20, 1959 (p. 212—House Hearings Report) strongly rejected the restrictive policy and regarding adequacy of funds, stated:

"To exclude naturalized citizens, because of the inadequacy of funds, when excluded citizens have no other remedy at all, is the very essence of unjust discrimination." "There will be sufficient assets in the fund for all to recover on a pro rata basis. Grace should not be extended only to the senior category."

The 1953 Report of the War Claims Commission stated regarding the equities on this matter (House Doc. 67, 83d Congress, First Session):

"The latter group of (new) 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 the draft 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 state, 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, however, not adopted by the conferees, on the apparent (but wrongly assumed grounds, as evidenced above) that it would run counter to established doctrine with respect to the espousal of international claims.

"While there may be a valid legal basis (which is not so as substantiated by evidence given above and later) 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 the eligible claimants should govern."

On August 6, 1959, the late Mr. English, testifying at the House Hearings for the State Department admitted under questioning (p. 711 House Hearings Rep.).

Mr. Dingell: "The distribution of funds is a matter of domestic policy and not a matter of international law at all. * * *

Mr. English: "That is right."

"Congress has the power to distribute those funds as they see fit," but "that the State Department is simply following policy which Congress itself has followed up to the present time."

A vicious circle evolves. It started with the denial of protection of "junior" citizens in the weak Yugoslav Claims Settlement Agreement 1948, which, in spite of grave misgivings regarding the restrictive rule, was pressed upon Congress to be implemented in the questionable Foreign Claims Settlement Act 1949, to be in turn perpetuated in new Foreign Settlement Agreements and in "an analogy" again "followed up" by implementing legislation in a perpetual circle without regard to changed circumstances and particularly without regard to the conceded facts that "the distribution of funds is a matter of domestic policy and not a matter of International law at all" for Claims legislation."

No assumption of international law, moreover a wrong one of bygone days is supposed to enter and smokescreen deliberations on domestic legislation endangering constitutional rights, and as long as the purpose of law in the United States remains to establish justice under the Constitutional law, equality in dispensation of funds by grace of Congress cannot depend on adequacies or inadequacies of the fund amount.

Recently, the Supreme Court stated:

1. We start from the premise that the rights of citizenship of the native born and of the naturalized persons are of the same dignity and are co-extensive and 100 years ago the Supreme Court stated:

2. "The simple power of the national legislature is to prescribe a uniform rule of naturalization and the exercise of this power exhausts insofar as respects the individual. The Constitution then takes him up. * * * He is distinguishable in nothing from a native as far as the Constitution makes the distinction." "A naturalized citizen becomes a member of society, possessing all the rights of a native citizen and standing in the view of the Constitution on the footing of a native."

Sound policy, American moral and legal principle require a full inclusion of naturalized citizens in claims legislation.

AN ACT TO AMEND THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949,
AS AMENDED

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, THAT the International Claims Settlement Act of 1949, as amended, is further amended by adding at the end thereof the following:

TITLE IV

Section 2. Section 304 of the International Claims Settlement Act of 1949, as amended, is further amended by adding at the end thereof the following:

"Since all claims against the Government of Italy, filed with the Commission pursuant to the provisions of Public Law 84-285 and Public Law 85-604, were adjudicated, and the principal of the awards and interest thereon had been fully paid out of the Italian Claims Fund created pursuant to Section 302 of this Act, the Foreign Claims Settlement Commission of the United States is authorized, notwithstanding any provisions of Title III of the International Claims Settlement Act of 1949, as amended, limiting the period within which claims may be filed thereunder, including Section 316 of such Act (22 USC. 16410), to receive, consider and adjudicate any claims against the Government of Italy filed by claimants who were citizens at the time when Public Law 84-285 and Public Law 85-604 became effective, as if such claims had been filed within the time and manner provided in the International Claims Settlement Act of 1949, as amended. Upon payment of the principal amounts with interest of all awards rendered under the above provision, certified to the Secretary of the Treasury for claimants out of the remaining balances in the Italian Claims Fund, the Foreign Claims Settlement Commission is authorized to receive, consider and adjudicate any further claims under this Section by any natural person who is a citizen of the United States at the time of enactment of this amendment. (This Section shall not be construed so as to exclude from eligibility claims wherein (a) the property loss or damages thereon were due to the action of any belligerents in Italy or areas occupied by Italian military forces during World War II; and (b) the claimant had not previously filed a claim. The Commission shall, within sixty days after the effective date of the present amendment, publish within the Federal Register the time when, and the limit of time within which, claims not theretofore filed may be filed under this amendment, which limit shall not exceed six months after such publication. Any claim heretofore partially or fully denied under this Section prior to the effective date of this amendment, shall be reconsidered by the Commission solely to redetermine its validity and amount by reason of this amendment. The Commission shall certify to the Secretary of the Treasury any award issued to such claims for payment out of the remaining balance in the Italian Claims Fund, in accordance with the provisions of Section 310 of this Act, notwithstanding that the period of time prescribed in Section 316 of this Act for the settlement of all claims may have expired."

Mrs. KELLY. Since you approve of the bill as it stands, we understand your position thoroughly.

Thank you very much.

Mr. Seymour Rubin.

**STATEMENT OF SEYMOUR J. RUBIN, ATTORNEY,
WASHINGTON, D.C.**

Mr. RUBIN. Thank you very much, Madam Chairman. I have a brief statement. My summary will be briefer.

My position is identical with that of Mr. Panzer. I represent, as he does, a number of individual claimants to whom awards have been adjudicated. A number of my clients have died, left widows and dependent children behind. The money on the Rumanian claims fund has been sitting in the Treasury of the United States since July 1, 1964. There has been absolutely no reason why it should not have been distributed, absolutely no reason why, in point of fact, legislation should not have been enacted enabling the additional claims to be adjudicated prior to July 1, 1964, so that the distribution could have

taken place promptly after that date. My only comment at the present time is that this legislation, insofar as it relates to the Rumanian and obviously also the Bulgarian Claims Programs, although I have no personal interest in their sections, is very long overdue. There can be absolutely no objection to this particular provision of it and, like Mr. Panzer, I would support the bill in its entirety unless there is objection to it on other collateral clauses.

As to the Rumanian claims, there has been no objection to these provisions. I would urge that most immediate action be taken to affect distribution of those funds.

Thank you.

Mrs. KELLY. Your statement may be made a part of the record, without objection. There was no objection.

(The prepared statement of Mr. Rubin is as follows:)

TESTIMONY OF SEYMOUR J. RUBIN

My name is Seymour J. Rubin. I am an attorney admitted to practice in the State of Illinois and the District of Columbia. My present offices are in the Woodward Building, Washington, 5, D.C.

I appear on behalf of a number of American nationals who hold awards under Title 3 of the International Claims Settlement Act of 1949, as amended.

I have had considerable experience in the field of international claims. Until 1948, I was Assistant Legal Adviser for Economic Affairs in the Department of State. I am the author of several articles dealing with the subject of nationalization and compensation, including an article in the November 1954 issue of the American Bar Association Journal, which urged the enactment of legislation of the sort which subsequently became Title 3 of the Act.

On August 9, 1966, I appeared before this honorable sub-committee to testify in favor of certain provisions of S. 1935, 89th Congress, 2d Session.

As I stated in connection with S. 1935, the taking of action to make possible distribution of the funds which are now available to Rumanian and Bulgarian claimants is long overdue.

I represent a number of American citizens, claimants under the Rumanian claims program, whose claims have been long since adjudicated and approved by the Foreign Claims Settlement Commission.

After taking into account the small number of additional claims which will have to be adjudicated pursuant to the terms of the Rumanian/American Agreement of March, 1960, these claimants are entitled to a pro rata distribution of the funds paid into the Treasury of the United States by Rumania, which funds were paid in for the specific purpose of making such additional payments. Payments by the Government of Rumania were completed on July 1, 1964. The lack of legislative authority since that date has prevented distribution of funds to which these persons, and these persons alone, are clearly entitled. Had legislation been enacted after the Rumanian/American Agreement of 1960, authorizing adjudication of the new claims covered by the Rumanian/American Agreement, that step could long ago have been completed, and the funds could well have been distributed shortly after the completion of Rumanian payments in July, 1964.

It is beyond any controversy that the funds in question must be distributed in the manner set out in H. R. 9063. The delay which I have mentioned has been, and continues to be, extremely unfortunate. All of the claimants whom I have represented in the proceedings before the Foreign Claims Settlement Commission are individuals. All of them suffered from expropriation of their property in Rumania. The majority of them hold relatively small awards, and the pro rata payment of these awards is, in most cases, quite important in proportion to their total earnings or capital. In several cases, the individual claimants have died since the inception of the claims program, and widows or children would be the beneficiaries of the payments for which they have, for so long, been waiting.

It is, in my view, not possible to make any argument against the remedial legislation proposed in H. R. 9063. The only valid comment which can be made with respect to it is that it should long ago have been enacted. It is my hope that it will be promptly enacted, and that its enactment will be followed by speedy action on the part of the Foreign Claims Settlement Commission to complete the claims program.

Mr. MONAGAN. How many clients do you have that are under—

Mr. RUBIN. I represent approximately 10 clients and individuals.

Mr. MONAGAN. Do you know how many claims were allowed under the Rumanian fund? Do you have any idea?

Mr. RUBIN. No, I don't have any idea of what the total number of claims were.

Mr. MONAGAN. This is more or less general information. How would these vary in amount among the clients you have?

Mr. RUBIN. The largest award is somewhere in the neighborhood of \$400,000. The majority of them run around \$50,000, \$60,000, \$70,000 in award. That does not mean the amount of money paid out.

Mr. MONAGAN. Thirty-five percent would be an average.

Mr. RUBIN. That is right.

Mrs. KELLY. I certainly express my appreciation to you, Mr. Rubin, for being here before the committee and in discussing this entire bill with me many times. I certainly appreciate your views and your knowledge of the background of this entire legislation.

Mr. MONAGAN. One other question.

There is, of course, no interest running on the amount of the adjudications?

Mr. RUBIN. No; the 35 percent is the amount on the principal and the interest claim theoretically remains. If somebody could get jurisdiction in Rumania and press a claim there is a very thin theoretical possibility of pressing a claim. It is obviously a figment of the imagination. This money has been sitting in the Treasury since 1964 when the Rumanians finished their claim. If a distribution of \$10,000 had been made to one of my clients or Mr. Panzer's client he could have invested it in a savings account and got 6 percent. He hasn't even gotten that.

Mrs. KELLY. I think that action on this legislation is overdue and should be taken this session.

I have a note here from a Mr. George Radin who would like to say a few words.

We would appreciate it if you could be brief, because we are being called to the floor to vote.

STATEMENT OF GEORGE RADIN, ATTORNEY, WASHINGTON, D.C.

Mrs. KELLY. Could you identify yourself?

Mr. RADIN. My name is George Radin, an attorney, representing a man in serious condition, a former Montenegrin, Yugoslavia, who lost everything that he owned. A member of a very well known family in Montenegro, one of the half a dozen top families, who was in foreign service of his country when Italy invaded his birthplace in Montenegro, which invasion resulted in total destruction of his property.

Now he is in a serious state and lacks 2 years to be eligible for help under the proposed H.R. 9063 because, as a displaced person, he came here 2 years later than he could have become in time a citizen. He became a citizen in May 1957, and this proposed law goes to August 9, 1955.

If an amendment, perhaps, or a provision could be made to cover a case like that, it would mean saving the worthy man for whom I am pleading, and others like him.

Mrs. KELLY. How old is this man?

Mr. RADIN. Sixty-seven, now.

Mrs. KELLY. Can you tell me how much is his claim?

Mr. RADIN. Approximately \$40,000.

Mrs. KELLY. Do you support the legislation before the subcommittee?

Mr. RADIN. Yes, with some provision thereto for Italy to compensate the property losses referred to above.

Mrs. KELLY. We will need for the record where you live and where you practice law. Could you submit that?

Mr. Monagan, do you understand his amendment? Is his amendment to give the right to compensation to one individual or is he asking that we reopen the program and extend the date?

Mr. MONAGAN. Two years.

Mr. RADIN. Yes.

Mrs. KELLY. Have you any questions?

Mr. MONAGAN. I don't think so.

Thank you.

Mrs. KELLY. You can submit additional evidence for the record, Mr. Radin.

I would ask you to submit your address and where you practice law, and any additional facts as soon as possible.

(The material referred to follows.)

WASHINGTON, D.C., July 5, 1967.

Re public hearing on H.R. 9063.

Hon. EDNA F. KELLY,
Chairman, Subcommittee on Europe, Committee on Foreign Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: At the conclusion of the hearing on June 27, 1967, you very kindly stated that I could submit a written statement on what further I am required to place before your Subcommittee.

It is in connection with real property losses in RUMANIA that I am in need of help in connection with the consideration of H.R. 9063.

In February, 1956, I filed my claim with the Foreign Claims Settlement Commission of the United States, Claim No. RUM-30,038.

The Commission's decision No. RUM-690 of February 2, 1959 denied my said claim for the stated reason that "evidence of record does not establish that claimant inherited any interest in the property involved in this claim or that the property was nationalized or otherwise taken by the Government of Rumania."

During all that time, the Office of Special Consular Service of the Department of State did all they could do with the help of the American Legation in Bucharest in our effort to secure from the unfriendly (and obviously unwilling) Rumanian communist rulers what was necessary for me to file within the required time with the Commission in Washington in support of my claim.

The political situation now appears to be somewhat better in relation to the communist-ruled Rumania. My relatives in Rumania have written me that local authorities where the real property is located had informed them last month that an official request from the Department of State would produce the documentary evidence for substantiating my inheritance of real property from my parents and my brothers.

However, I have been informed that under the proposed legislation on Rumania only those claims could be considered by the Foreign Claims Settlement Commission which relate to happenings in the period between 1955 and 1960. Just what that means I don't know. I, therefore, herewith appeal for help of the Congress of the United States on behalf of all U.S. nationals who suffered property losses in Rumania similar to my real property losses confiscated in Rumania.

Respectfully yours,

GEORGE RADIN,
Attorney at Law.

STATEMENT SUBMITTED ON H.R. 9063 BY GEORGE RADIN

I am a member of the New York bar ever since 1925 and a member of the bar of the District of Columbia since 1963, with offices at 2600 Woodley Road NW., Washington, D.C.

Mr. Ilija P. Plamenatz, of 220 C Street, S.E., Washington, D.C., in whose behalf this plea for due consideration by this Honorable Committee is made, was a Secretary of the Legation of Yugoslavia in Rome, Italy, when Italy joined June 10, 1940, the Axis Powers in World War II. Thereupon, Yugoslavia's legation was evacuated and Mr. Plamenatz managed to get to Portugal in the effort to report for duty in the Yugoslavia's Foreign Ministry in exile in London, where he arrived in 1941—and was directed to join promptly a Yugoslav group training in Scotland for their country's navy. From there he was sent to Norway on a wartime mission. From Norway he was ordered to report for duty in Cairo, Egypt, to serve as liaison officer with the Allies early in 1943.

From Egypt, Mr. Plamenatz was sent on a mission with Allies in Algeria for some time in 1943—and then to Palermo, Italy, where he organized an Allied Home before the end of 1943.

In 1944, Mr. Plamenatz became Secretary of Yugoslavia's Delegation in Rome and remained there until a coalition government was formed for Yugoslavia at the end of 1944, headed by Communists, in which government representatives of two pre-war democratic political parties took part—and Mr. Plamenatz returned to Belgrade to work for that coalition government.

However, after a brief working experiment with Communists, the representatives of the two pre-war political parties withdrew from that coalition government—and soon thereafter Mr. Plamenatz was put in jail in Sremska Mitrovica where he languished sixteen months. Thereupon, friends and relatives helped him to escape to Italy, seeking for possibilities to go to USA as a displaced person. However, it was not until 1951 (November 30) that he was able to secure entry into this country for permanent residence as a displaced person—which, in turn, prolonged his ability to become a US national until May 14, 1957.

In view of the above happenings, I beg to submit that Mr. Plamenatz deserves a maximum favorable consideration by the United States Congress in the legislation under consideration: to enable him (and other US nationals in a similar position) to participate in some way in the distribution of the balance in the War Claims Fund for physical damage to or loss of real property in his native Montenegro which occurred as a direct consequence of enemy military operations of the Italian armed forces in World War II.

(The following material was submitted for inclusion in the record:)

STATEMENT BY MRS. JOSEPHINE GOTLEY, PALM BEACH, FLA.

In pre-war years my husband invested money in Stocks of a firm in Bulgaria. The firm was then in the process of enlarging and in due course my husband was made Chairman of the Board of Directors. (President.)

The war interrupted communication with Bulgaria, however according to statements my husband received after the war, dividends and interests had accumulated and all his holdings been placed in the: "Banque National de Bulgarie."

When my husband passed away in 1959, I found all the documents together with a note of the Central Administration of the Banque National de Bulgarie dated *September 14th, 1955*, with which my husband was informed that according to the law of nationalisation of industrial enterprises and private properties, his titles and possessions have been turned over to the benefit of the State Treasury.

Mrs. KELLY. The hearing stands adjourned.

(Whereupon, at 3:25 p.m., the subcommittee was adjourned, subject to the call of the Chair.)