PROPOSED AMENDMENTS TO THE COMMITTEE PRINT OF THE HOUSE OF REPRESENTATIVES BILL TO AMEND THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

PRESENT TEXT:

Title II, Page 2, Section 201, Subsection (3), reads as follows:

"'Nationals of the United States' include (A) persons who are citizens of the United States, and (B) persons, who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens."

Title II, Page 27, Section 217, reads as follows:

"The Commission is hereby authorized and directed to receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims of nationals of the United States against the Governments of Bulgaria, Hungary and Rumania, or any of them..."

Title II, Page 32, Section 226, reads as follows:

"The Commission shall complete its affairs in connection with the settlement of claims pursuant to this...

TEXT WITH PROPOSED AMENDMENT:

"'Nationals of the United States' includes (A) persons who are citizens of the United States, (B) persons, who, though not citizens of the United States, owe permanent allegiance to the United States, and (C) persons, who, in accordance with the Treaties of Peace defined in Subsection (2) of this Section, had been treated as enemy under the laws enforced in Bulgaria, Hungary and Rumania during the War and who, on the effective date of this Act, were citizens of the United States. It does not include aliens."

Same, except the phrase "international law" to be stricken.

"The Commission shall complete its affairs in connection with the settlement of claims pursuant to this..."
title not later than four years following the enactment of this title, or following the enactment of legislation making appropriations to the Commission for the payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later: PROVIDED, That nothing in this provision shall be construed to limit the life of the Commission, or its authority to act with respect to other categories of claims which may be effected under the provisions of this legislation."

CO M M E NT S

1. The amendment proposed to Title II, Section 201(5) is based on the Treaties of Peace with Bulgaria, Hungary and Rumania signed at Paris on February 10, 1947. For the purposes of the draft bill, these treaties should be considered as points of departure in the determination of the Congress as to the type and nature of compensation. The draft bill so provides, when in Title II, Section 217(1) reference is made to Article 23 of the Treaty of Peace with Bulgaria, Articles 26 and 27 of the Treaty of Peace with Hungary, and Articles 24 and 25 of the Treaty of Peace with Rumania, which articles are set out as the basis of compensation for war claims.

But these Peace Treaty articles also provide that eligible claimants shall include "United Nations nationals" which term includes (see Article 23(6) of the Peace Treaty with Bulgaria, for example) all individuals, corporations or associations who, under the laws enforced in Bulgaria during the war, were treated as enemies. Yet the draft bill would depart from the Treaties of Peace by limiting claims eligibility to United States nationals, i.e., persons who were citizens of the United States at the time of the respective armistices with Bulgaria, Rumania and Hungary, -- 1944, 1945. The effect of the present draft would be to exclude United States citizens of Rumanian, Bulgarian and Hungarian origin, who were United Nations nationals and therefore eligible to recover under the Treaties of Peace, who found a haven in the United States and became citizens of the United States after the armistices of 1944 and 1945. Such persons should not be excluded merely because they were not citizens of the United States at a time when they were United Nations nationals. This would be an unwarranted application of inapplicable principles of "international law". The funds vested and to be vested should be made available not only for United States citizens who were citizens during the war, but also for those who were victims of the war and covered by the Treaties of Peace who are now citizens of the United States. It would constitute grave injustice and in violation of the spirit and letter of the Treaties of Peace to exclude these citizens of the United States merely because they acquired United States citizenship after the war.

The United States is free to devote these Bulgarian, Rumanian and Hungarian funds to such purposes as it desires in the interests of justice and equity.
The proposed amendment facilitates justice by liberalizing rather than
harshly restricting the eligibility of those citizens of the United States
who would be able to obtain some measure of redress. Thus the following
provision in the Treaty with Hungary (Article 29) is repeated in the Treaties
with Bulgaria and Rumania:

"1. Each of the Allied and Associated Powers shall have the
right to seize, retain, liquidate or take any other action
with respect to all property, rights and interests which
at the coming into force of the present Treaty are within
its territory and belong to Hungary or to Hungarian na-
tionals, and to apply such property or the proceed thereof
to such purposes as it may desire, within the limits of
its claims and those of its nationals against Hungary or
Hungarian nationals, including debts other than claims
fully satisfied under other Articles of the present Treaty.
All Hungarian property, or other proceeds thereof, in ex-
cess of the amount of such claims shall be returned."
(Underlining supplied.)

When the International Claims Settlement Act of 1949 was originally under
consideration, Senator Wiley proposed an amendment pursuant to which persons
who, at the time their claims arose, were permanent residents of the United
States and had declared their intentions to become citizens, and who, prior
to the effective date of settlement, had acquired United States citizenship
(see Senate Report No. 800, 81st Congress, 1st Sess. on H.R. 4406) would be
eligible as claimants in future claims programs with other countries. The
Senate Committee on Foreign Relations and the Senate itself adopted the
amendment. Unfortunately, as a result of conference action, the amendment
did not become law. It should become law now.

As the Senate Report shows, the Senate was impressed by the hardship factor.
It felt that, under the circumstances, an attempt to extend the traditional
confines of protection was justified. It is sound policy to try to satisfy
as large a group of American citizens as possible, although each claimant
might receive only a small percentage of his claim out of the suggested
funds.

2. The language, "including international law", in Sec. 217 of the draft bill
is, on the above basis, unnecessary, since it can operate only to reduce
the eligibility of American citizens as claimants. The provisions of the
Treaties of Peace, cited above, when added to the phrase "applicable sub-
stantive law" amply provide rules of decision for the Commission. The
experience of the Commission in its Yugoslav adjudications is that "inter-
national law", in the main, was a basis for exclusion of claimants,
American citizens who had suffered economic loss, causing great hardship
and failure to compensate. The Bulgarian, Hungarian and Rumanian claims,
provided for in the draft bill, were not settled on the basis of diplomatic
espousal under international law. The restrictive features of "international
law" are not here germane.
3. It seems unjust and unnecessary to allow a four year period for the Commission to complete its work. It is common experience in claims matters that claims commissions take the maximum period allowed by Congress to complete their activities. The International Claims Commission set up by the International Claims Settlement Act of 1949, having an original four year period provided, accomplished very little during the first two or three years, at the expense of the claimants' funds (the administrative cost exceeded the amount awarded claimants), while more than 1000 claims were adjudicated by the Foreign Claims Settlement Commission within less than one year. The Act, in fact, was amended to give the Commission an additional nine months to complete the four year assignment. In addition, it is difficult, under present circumstances, to visualize the possibility of Field Staffs in Bulgaria, Rumania, Hungary or the USSR which would necessitate the delays which field investigation achieved in Yugoslavia under the Yugoslav program.

Experience should induce the Congress to limit the time for adjudication to no more than two years.