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SENATE

{ REPORT
No. 1894

SETTLEMENT OF WAR CLAIMS BILL OF 1927

FEBRUARY 5, 1927.—Ordered to be printed

Mr. SMOOT, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 15009]

The Committee on Finance, to whom was referred the bill (H. R. 15009) to provide for settlement of certain claims of American nationals against Germany, and of German nationals against the United States, for the ultimate return of all property of German nationals held by the Alien Property Custodian, and for the equitable apportionment among all claimants of certain available funds, having had the same under consideration, report favorably thereon, with certain amendments, and as amended recommend that the bill do pass.

I. OUTLINE OF PROBLEMS INVOLVED

There are three major problems involving the United States and its nationals and the German Government and its nationals arising out of the World War which remain unsettled:

(1) The United States Government and many American citizens suffered damages by reason of acts of the German Government during the war period. A commission, known as the Mixed Claims Commission, United States and Germany, has been created to hear and determine the claims and to enter awards for the damages for which Germany was responsible. Germany has undertaken to pay these awards. If the American claimants are forced to rely upon the distributive share in the payments by Germany, approximately 80 years will be required for payment in full. Consequently, some method must be provided by which the American claimant can obtain a more immediate payment.

(2) Property of German nationals in the United States was seized during the war by the Alien Property Custodian under the provisions of the trading with the enemy act, and a large part of it is still retained. Under the Knox-Porter peace resolution, which was incorporated in the treaty of Berlin, the United States unquestionably

possesses the right to retain this property until Germany has made suitable provision for the satisfaction of the claims of American nationals against the German Government. Unless, however, Congress is prepared to adopt a policy of confiscating the property of an enemy national to pay the debts of his government some provision must be made for a more immediate return of this property.

(3) The United States Government seized or acquired during the war for its own use certain property (notably ships, patents, and a radio station). Although the United States paid the Alien Property Custodian for the patents and the radio station acquired from him, it has paid no compensation for the ships. Consequently, some provision must be made for the payment of the amounts justly due.

The proposed legislation recognizes the close relationship between the three problems and that they must be solved together. In theory, the solution might be simple. However, we are confronted with a practical situation, and a practical solution, therefore, must be provided. Under the circumstances, it is impossible to provide for the immediate payment of all the American claimants, the immediate payment of all the shipowners, and the immediate return of all the alien property. Accordingly, your committee was confronted with the task of providing for the immediate payment of as large a percentage as possible of the claims of the American nationals and German shipowners, and for the return of as large a percentage as possible of the alien property.

II. OUTLINE OF ESSENTIAL DIFFERENCES BETWEEN THE HOUSE BILL AND THE BILL AS REPORTED TO THE SENATE

(1) PAYMENT OF AWARDS OF MIXED CLAIMS COMMISSION

The bill as it passed the House provided for a priority payment to American nationals of an amount equal to 80 per cent of their awards, and provided that out of this amount the awards on account of death or personal injury should be paid immediately in full, the awards not in excess of \$100,000, and the sum of \$100,000 in respect of all other awards, should be paid immediately in full, and the balance should be distributed to the awards remaining unpaid. Under the House bill, however, it would take six years to pay this 80 per cent. The remaining 20 per cent would share with the shipowners and the alien property owners in their deferred payments.

Under the bill as reported by your committee the payment of the 80 per cent should be made within two years, by reason of the fact that a larger percentage (40 as compared with 20 per cent) of the alien property is retained and used for this purpose. Your committee, however, has recommended no change in the priority of payment to the claimants as fixed in the House bill.

(2) SETTLEMENT OF SHIP, PATENT, AND RADIO STATION CLAIMS

The bill as it passed the House provided for the appointment of an arbiter to appraise the value of the ships taken by the United States and of the patents and radio station used by the United States or acquired by the United States from the Alien Property Custodian; established an artificial standard of value for the ships; disregarded

the bona fide sales and licenses from the Alien Property Custodian to the United States; fixed a maximum of \$100,000,000 for the aggregate payments to be made; and provided for the immediate payment of 50 per cent of the amount of the awards and deferred the payment of the balance.

Your committee, after very careful consideration, believes that it is inadvisable to attempt to go back of the transactions which took place at the time. The United States paid for the patents and the radio station acquired from the Alien Property Custodian, and the bill as reported to the Senate consequently proposes to eliminate the provisions of the House bill for a new appraisal and a further payment by the United States in accordance with such appraisal. Substantially all the ships were appraised by a Navy board of survey, and the appraised values are a matter of record. The methods employed by the board were proper and the appraisals seem to have been fairly made. The bill as reported to the Senate consequently eliminates the provisions of the House bill for a new appraisal and provides for the payment for the ships upon the basis of the appraisals made by the Navy board of survey. In order that a judicial determination may be made of the respective rights of the various claimants to this appraised value, the committee amendment provides for the submission of the claims to the Court of Claims. Your committee further believes that no discrimination should be made between the two classes of German nationals, and, therefore, the committee amendment provides for an immediate payment of 60 per cent to the shipowners and a deferred payment of 40 per cent, the same percentages as are made applicable in the case of alien property owners.

(3) RETURN OF ALIEN PROPERTY

The House bill provided for the return of 80 per cent of the property of German nationals held by the Alien Property Custodian and the temporary retention of the remaining 20 per cent and its application to the payment of the claims of American citizens.

In order that the American claimants may be paid 80 per cent of their awards within two years after the bill becomes law, the committee amendment provides for the temporary retention of 40 per cent of the alien property.

(4) PAYMENT OF CLAIMS OF THE UNITED STATES

The bill as it passed the House provided that the private claims of American and German nationals should be paid in full and that not until then would the claims of the United States Government (aggregating approximately \$60,000,000) be paid.

The bill as reported to the Senate provides that the United States will share with the private claimants after the private claimants have received their specified percentages.

(5) LATE CLAIMS BEFORE THE MIXED CLAIMS COMMISSION

The House bill failed to make any provision under which relief could be extended to American citizens whose claims against Germany were not filed with the Mixed Claims Commission within the six

months' period. The committee amendment requests the President to negotiate for an extension of time, in order that the Mixed Claims Commission may hear and determine claims, otherwise within its jurisdiction, which were presented before January 1, 1927.

III. CLAIMS AGAINST GERMANY

(1) CLASSES OF CLAIMS

The United States Government and citizens of the United States have claims against the German Government. Germany in the treaty of Versailles recognized its liability for two different classes of claims:

(a) So-called reparation claims—that is, claims which come under Part VIII of the treaty of Versailles. Generally speaking, these claims are for losses and damages suffered by the United States and its nationals as a consequence of injury to or destruction of life or property (the classes of claims which are included are enumerated in Annex I to Section I of Part VIII); and

(b) Claims arising under the economic clauses of the treaty (Part X). One class of these claims is for debts owing to American citizens, provided for under article 296 of Section III of Part X. The other class is included under article 297 of Section IV of Part X, and covers claims resulting from the application of an exceptional war measure or measure of transfer by Germany to the property, rights, and interests of an American citizen. These provisions of the Versailles treaty are incorporated in the treaty of Berlin of August 25, 1921.

It will be noted that the claims of the United States Government (other than its claims for the costs of the Army of occupation) are based solely upon the reparation clauses, while the claims of American citizens may arise either under the reparation or the economic clauses.

The Versailles treaty provided that the reparation claims should be presented to the Reparation Commission. Under these provisions the Allies presented lump-sum claims for reparations, amounting approximately to 132,000,000,000 gold marks—that is, approximately \$33,000,000,000 in principal, bearing interest at 5 per cent per annum, or \$1,650,000,000 a year. Inasmuch as the United States was not a party to the Versailles treaty, its claims for reparation were not presented to the Reparation Commission.

The method provided for the adjudication and determination of the amounts due under the economic clauses of the treaty was this: For the settlement of debts (under article 296) it was provided that clearing offices could be established; each country could have its own clearing office and the debts would be reported by the nationals of each country to its own clearing office, and at stated periods a balance would be struck and payment made through the different clearing offices. For the claims that arose for damages resulting from an application of exceptional war measures (under article 297), the treaty provided for the establishment of mixed arbitral tribunals.

(2) THE MIXED CLAIMS COMMISSION

Inasmuch as the United States was not a party to the Versailles treaty, it became necessary for the United States, after the ratification of the treaty of Berlin, to establish a tribunal for the settlement

of all classes of claims. Consequently, an agreement was entered into between the United States and Germany on August 10, 1922, for the establishment of a Mixed Claims Commission, consisting of one commissioner to be appointed by each Government and an umpire to be selected by agreement between the two Governments. The commission was organized on October 9, 1922, and since that time has been engaged in the tremendous task of adjudicating the claims and entering awards upon them. Your committee is convinced that the commission has patiently and industriously discharged its task, in a manner to deserve and command the respect and confidence of all parties, and that international arbitration has been effectively promoted by the efficient functioning of the commission.

The commission was given jurisdiction to pass upon the following categories of claims:

(a) Claims of American citizens, arising since July 31, 1914, in respect of damage to, or seizure of, their property, rights, and interests;

(b) Other claims for loss or damage to which the United States or its nationals have been subjected with respect to injuries to persons, or to property rights and interests since July 31, 1914, as a consequence of the war; and

(c) Debts owing to American citizens by the German Government or by German nationals.

Accordingly, the jurisdiction of the commission extended to all classes of claims—that is, claims of the United States Government and claims of American citizens, whether such claims were based upon the reparation clauses or upon the economic clauses. The liability of Germany, however, is fixed in the treaty of Berlin and, of course, could not be extended or diminished. The fact that Germany's liability differs in the two classes of claims under the economic clauses accounts for the apparent misunderstanding on the part of some of the claimants.

One of the points about which there has apparently been some misunderstanding is the rate of exchange applicable in the settlement of debt claims. The treaty of Versailles specified that the rate of exchange should be the average cable transfer rate prevailing during the month immediately preceding the outbreak of war between the country concerned and Germany. Applied to the case of the United States, the average cable transfer rate was 17.4 cents to the mark. Under the clearing-office system the Allies who adopted the system and Germany were to be responsible for the debts of their own nationals. But the United States did not adopt the clearing-office system. Consequently it was questionable whether, under the treaty of Berlin, Germany was responsible for the debts of its nationals. This question was settled by an agreement between the German agent and the American agent, under which Germany assumed liability for the private debts, and a rate of exchange of 16 cents was adopted.

Another point about which some misunderstanding has prevailed is the liability of Germany for its bonds. If the bond or any of its coupons matured during the war, it became a debt of Germany upon the date of maturity, and Germany's liability was the same as in the case of any other debt—that is, it was liable at the rate of exchange agreed upon, 16 cents. However, if the bond did not mature during the war, Germany's only liability arose under Article 297, as distinguished

from debts under Article 296. Consequently, Germany's liability is solely for damages resulting from exceptional war measures or measure of transfer of Germany. Germany's obligation was to make compensation to the extent of the damage sustained by the American citizens because of such measures. The proceedings of the commission in establishing its rules for the proof of damages are set out at length in the hearings, and your committee is convinced that they are very liberal and favorable to the American claimant.

By an exchange of notes at the time of signing the Mixed Claims Commission agreement, it was agreed by the American ambassador and the German Chancellor, acting on behalf of their respective Governments, that the Mixed Claims Commission should consider only claims notices of which were filed within the period of 6 months after the date of its organization (that is, on or before April 9, 1923). Although this period might seem rather short, it was perhaps justified by the necessity of the circumstances. Notices of the dates were published and every opportunity availed of to bring a notice of the dates to the American claimants. However, some claims, as is usually the case wherever a statute of limitations is imposed, can not be presented to the commission because of the bar of the six months' period. Inasmuch as the agreement is an agreement between the United States and Germany, it is indisputably beyond the power of Congress to alter or amend. Accordingly, your committee has proposed an amendment requesting the President to enter into negotiations with Germany under which claims which were filed prior to January 1, 1927, might be considered by the commission. If Germany consents to this extension, all claims of merit for which Germany is liable under the treaty should be settled expeditiously by the commission. It is unnecessary to point out, of course, that Germany's liability can not be altered in this manner, so that the commission will have no greater jurisdiction over any claim than it would have had if the claim had been presented to it in time. It has been estimated that not more than \$3,700,000 should be awarded on account of the late claims filed up to March 4, 1926, but no estimate is available on claims filed after that date.

A table showing the number of the awards and their classification will be found in Appendix B to this report. The following table shows the aggregate amounts of the awards entered as of February 2, 1927, and includes an estimate of the probable awards to be entered in the future:

1. Awards on behalf of American nationals:	
Principal of awards entered.....	\$103, 440, 337. 28
Principal (estimated only) of awards to be entered.....	24, 400, 000. 00
Total principal.....	127, 840, 337. 28
Interest to Jan. 1, 1927, on awards entered.....	41, 439, 546. 18
Interest to Jan. 1, 1927 (estimated only) on awards to be entered.....	9, 500, 000. 00
Total interest.....	50, 939, 546. 18
Total of principal and interest.....	178, 779, 883. 46
2. Awards on behalf of the United States:	
Principal of awards entered.....	42, 034, 794. 41
Interest to Jan. 1, 1927, on awards entered.....	17, 164, 201. 36
Total of principal and interest.....	59, 198, 995. 77

The agreement contained, of course, no method for the payment of the awards, and, as has heretofore been pointed out, the method of payment constitutes one of the problems with which the Congress is now confronted.

(3) THE DAWES PLAN AND THE PARIS AGREEMENT

It soon became apparent that the reparation payments demanded of Germany far exceeded Germany's capacity to pay. In effect, Germany went into the hands of a receiver, and the Allies were confronted with the task of collecting from a debtor unable to pay the total demands. The Dawes committee of experts was constituted to determine how much Germany could pay. After investigation, it was decided in 1924 that the total of Germany's capacity to pay, after five preliminary years, was approximately \$625,000,000 a year. The Dawes plan did not pretend to fix the claims of the allied and associated powers, nor to prescribe the method by which the payments by Germany should be distributed. The committee did, however, make it clear that its determination of Germany's capacity to pay the above sum meant that this sum was the utmost she could pay in satisfaction of all claims of the allied and associated powers, however great. Although the United States was not a party to the agreement putting the Dawes plan into effect, it is apparent that the United States was confronted with but two choices: It could support the Dawes plan and assist in making it successful, or it could insist upon additional payments from Germany and thus assume the responsibility for the possible breaking down of the plan. The United States chose the first alternative. Accordingly, the United States was represented at the Paris conference which had been called for the purpose of determining upon a division of the payments to be made by Germany under the Dawes plan.

The United States claims were of two classes: First, its claims to have its army of occupation costs paid, and second, its claims to have the awards of the Mixed Claims Commission paid. Under the Paris agreement, the United States is receiving as reimbursement for its Army costs, as a prior charge, the sum of 55,000,000 gold marks per annum, or approximately \$13,000,000. In view of this provision, the question of the payment of the Army costs of the United States is not involved in the proposed legislation.

It was also provided in the Paris agreement of January 14, 1925, that the United States was to receive, as payment upon the awards of the Mixed Claims Commission, $2\frac{1}{4}$ per cent of all receipts from Germany on account of the Dawes annuity available for distribution as reparations, with a maximum of 45,000,000 gold marks after August 31, 1929, or approximately \$10,700,000 a year. This amount constitutes the entire amount which the United States is entitled to receive from the Dawes annuities paid by Germany. If no other method is provided for the payment of the awards of the Mixed Claims Commission, it will be seen that approximately 80 years will be required before all the awards, including those to the United States, are paid. The following table shows the estimated payments to

the United States under the Paris agreement, based on maximum annuities:

[Converted at \$0.2382 to the mark]

Year ending—	United States share		Army costs (55,000,000 gold marks annually)		Mixed claims (2½ per cent, but not to exceed 45,000,000 gold marks annually)	
	Gold marks	Dollars	Gold marks	Dollars	Gold marks	Dollars
Aug. 31, 1925	15,328,000	3,651,000	-----	-----	15,328,000	3,651,000
Aug. 31, 1926	19,500,000	4,645,000	-----	-----	19,500,000	4,645,000
Aug. 31, 1927	72,800,000	17,341,000	55,000,000	13,101,000	17,800,000	4,240,000
Aug. 31, 1928	84,400,000	20,104,000	55,000,000	13,101,000	29,400,000	7,003,000
Aug. 31, 1929	100,000,000	23,820,000	55,000,000	13,101,000	45,000,000	10,719,000
Total	292,028,000	69,561,000	165,000,000	39,303,000	127,028,000	30,258,000
Aug. 31, 1930, and thereafter	100,000,000	23,820,000	55,000,000	13,101,000	45,000,000	10,719,000

IV. SHIP CLAIMS

(1) AUTHORITY FOR THE TAKING OF THE SHIPS

Enemy ships were interned in ports of the United States, the Canal Zone, and the Territories, upon the declaration of war by the United States. Shortly after the declaration of war the joint resolution of May 12, 1917 (40 Stat. 75), was adopted, authorizing the seizure and acquisition of title of the ships by the President. The joint resolution is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to take over to the United States the immediate possession and title of any vessel within the jurisdiction thereof, including the Canal Zone and all territories and insular possessions of the United States except the American Virgin Islands, which at the time of coming into such jurisdiction was owned in whole or in part by any corporation, citizen, or subject of any nation with which the United States may be at war when such vessel shall be taken, or was flying the flag of or was under register of any such nation or any political subdivision or municipality thereof; and, through the United States Shipping Board, or any department or agency of the Government, to operate, lease, charter, and equip such vessel in any service of the United States, or in any commerce, foreign or coastwise.

SEC. 2. That the Secretary of the Navy be, and he is hereby, authorized and directed to appoint, subject to the approval of the President, a board of survey, whose duty it shall be to ascertain the actual value of the vessel, its equipment, appurtenances, and all property contained therein, at the time of its taking, and to make a written report of their findings to the Secretary of the Navy, who shall preserve such report with the records of his department. These findings shall be considered as competent evidence in all proceedings on any claim for compensation.

Under the authority of this resolution the President issued several Executive orders, the principal one of which was the order of June 30, 1917, under which the ships were taken over and were distributed to the United States Shipping Board and the Navy. (See Executive orders of May 11, 1917; May 14, 1917; May 16, 1917; May 22, 1917; June 12, 1917; July 3, 1917; July 12, 1917; August 3, 1917; September 22, 1917; November 2, 1917.)

(2) APPRAISAL OF THE SHIPS

It will be noted that the joint resolution provided for the appointment of a Navy board of survey to appraise the value of the ships at the time of taking. A member of the Navy board appeared before

your committee and testified at length as to the methods adopted in their appraisals. A complete list of the vessels appraised is given in Appendix A to this report.

The appraisals of the Navy board of survey were carefully and scientifically made. From all the data available, the board determined the sale value as of 1914, plotted a curve of depreciation, made a personal inspection of all the ships on the Atlantic coast, made allowance for damages, and then determined the value of the ship. In the case of ships not on the Atlantic coast, reports of Government officers at the port where the ship was located were submitted to the Navy board and their appraisal made upon those reports.

According to the records, only three ships were not appraised (the *Polux*, a steam tug; the *Hermes*, a wood motor vessel; and the *Jupiter*, a barge). The bill provides that in cases where there was no appraisal another board of survey shall be appointed to determine their value, adopting the principles and methods, as near as may be, used by the naval board of survey.

(3) APPROXIMATE AMOUNT DUE FOR SHIPS

The Navy board of survey shows an aggregate appraisal of \$34,193,690. The bill proposes to pay interest upon this amount from July 2, 1921 (the date of the peace resolution), until January 1, 1927, amounting approximately to \$9,350,000. Interest at the rate of 5 per cent upon this amount is allowed under the bill from January 1, 1927, until the date of payment; 60 per cent of the amount of the appraisal plus interest to January 1, 1927, will be paid as soon as the persons entitled to the payment have established their claims. The bill accordingly authorizes the immediate appropriation of \$50,000,000, which will be sufficient to cover the value of the ships not appraised and the interest after January 1, 1927.

(4) RETURN OF SHIPS IMPOSSIBLE

One hundred and six ships were taken over. Some of them have been sold, some were chartered, some destroyed during the war, some have been scrapped, and some are still being operated by agencies of the United States. Upon all the ships in operation, considerable sums have been expended for betterments, improvements, and repairs. It is obviously impossible to return them to their original owners. Consequently the United States has no choice but to pay for them.

V. PATENTS AND RADIO STATION

The records of the Alien Property Custodian show that 154 patents and 14 contract rights were sold by the Alien Property Custodian to the United States for a consideration of \$3,690, and that 5,850 patents were licensed to the United States for a consideration of \$100,000. The records also show that the radio station which was sold to the United States (the Sayville Station) was sold at approximately \$10,000 in excess of its appraised value.

Your committee believes that these transactions should be accepted as final, just as in the case of the appraisals of the ships, and in the case of other sales by the Alien Property Custodian. Consequently

the committee amendment strikes out the provisions of the House bill under which the arbiter would determine compensation for the patents used by the United States and the patents sold or licensed to the United States, and provides for the distribution by the Alien Property Custodian of the consideration heretofore paid him by the United States.

The following tables show the statements of the Alien Property Custodian in respect of patents seized by him and their disposition:

Seizure and disposition by Alien Property Custodian of patents, trade-marks, and copyrights

SEIZED

Property	Total number	Sold	Licensed	Sold and licensed	Returned	Other-wise disposed of	Title now held
Patents.....	11,988	5,834	5,415	529	183	77	5,492
Trade-marks.....	1,728	1,701	1	3	11	12	13
Copyrights.....	3,160	3,126	18	0	0	22	40
Total.....	16,882	10,661	5,434	532	144	111	5,545

DISPOSITION

Assignee	Property			Consideration		
	Sold	Licensed	Total	Sale	License	Total
U. S. Government:						
Patents.....	154	5,850	6,004	\$3,690.00	\$100,000.00	\$103,690.00
Contracts.....	14		14			
Chemical Foundation:						
Patents.....	5,089	None.	5,089	271,850.00	None.	271,850.00
Trade-marks.....	870		870			
Copyrights.....	492		492			
Various others:						
Patents.....	96	57	153	1,383,351.00		1,386,949.99
Trade-marks.....	13		13		3,598.99	
Sold with assets of corporation, 50 per cent or more stock owned by Alien Property Custodian; no value set up for patents, trade-marks, or copyrights:						
Patents.....	1,024		1,024			
Trade-marks.....	795	None.	795			
Copyrights.....	2,594		2,594			
Total.....				1,658,891.00	103,598.99	1,762,489.99

¹ 128 patents involved in Federal trade licenses.

Federal trade licenses under trading with enemy act, section 10 (c)

Property	Number of licenses	Number involved	Royalties
Patents.....	71	161	\$584,175.95
Trade-marks.....	3	3	1,408,434.00
Copyrights.....	13	18	960.76
Total.....	87	182	993,577.31

¹ \$157,000 Liberty bonds.

Section 10 (f)

Owners	Suits			Royalties involved	Royalties paid out, court decree	Royalties paid out, no suit
	Total	Settled	Pending			
Allen Property Custodian.....	12	-----	12	\$126, 648. 65	None.	None.
Chemical Foundation (Inc.).....	65	-----	65	486, 036. 66	None.	None.
Other owners.....	46	3	43	868, 595. 93	\$345, 145. 22	\$12, 387. 09
Total.....	123	3	120			

Received.....	\$993, 577. 31
Paid out.....	357, 583. 31
Now held.....	636, 045. 00
1--\$157,000 Liberty bonds.	

VI. RETURN OF ALIEN PROPERTY

(1) PROPERTY SEIZED BY THE ALIEN PROPERTY CUSTODIAN

Under the provisions of the trading with the enemy act, approved October 6, 1917, the Alien Property Custodian was authorized to seize property in the United States belonging to enemies or allies of enemies as defined in that act, to be held until after the war, and any claim arising therefrom to be settled "as Congress shall direct." (Sec. 12.) The report of the Comptroller General (p. 10 of Senate Doc. 182) shows that the total value of property seized was approximately \$759,500,000.

After the war numerous amendments to the trading with the enemy act were adopted by Congress authorizing the return of property to certain classes of enemies or allies of enemies. The most important of these amendments was the Winslow Act which became law on March 4, 1923, and which authorized the return to all enemies or allies of enemies of not more than \$10,000 of the principal of their money and other property seized and not more than \$10,000 during any year on the income on their money and other property. As the result of these various amendments and the return of property seized, the property in the hands of the Alien Property Custodian has been reduced to the value of approximately \$270,000,000. The following statement of the Alien Property Custodian shows the value of trust property on hand, as of October 31, 1926:

	Book figures, Oct. 31, 1926	Reappraised value, Oct. 31, 1926
Cash deposited with the Secretary of the Treasury:		
Invested.....	\$180, 752, 717. 56	\$180, 752, 717. 56
Uninvested.....	649, 515. 53	649, 515. 53
Total cash.....	181, 402, 233. 09	181, 402, 233. 09
Cash with depositaries.....	364, 324. 50	364, 324. 50
Stocks.....	42, 868, 594. 35	46, 526, 022. 49
Bonds, other than investments made by the Secretary of the Treasury.....	30, 472, 378. 05	33, 960, 338. 97
Mortgages.....	1, 877, 638. 58	1, 877, 638. 58
Notes receivable.....	313, 345. 55	313, 345. 55
Real estate.....	4, 280, 592. 02	5, 756, 744. 59
Accounts receivable.....	702, 141. 22	702, 141. 22
Miscellaneous, etc.....	605, 066. 99	605, 066. 99
Total.....	262, 381, 234. 96	271, 537, 856. 89

The Alien Property Custodian estimates the division of the above property among nationals as follows:

German.....	\$251, 709, 441. 83
Austrian and Hungarian.....	12, 478, 182. 31
Interned.....	15, 400. 00
Others.....	7, 334, 842. 75
Total.....	271, 537, 866. 89

(2) THE UNALLOCATED INTEREST FUND

A fund of approximately \$32,800,000 (commonly called the "unallocated interest fund") exists in the Treasury as the result of earnings on money deposited in the Treasury by the Alien Property Custodian and invested by the Secretary of the Treasury, and accruing prior to March 4, 1923, together with the gain derived from the sale of such bonds, and the earnings upon the earnings. Under the Winslow Act only earnings accruing after March 4, 1923, upon money deposited in the Treasury have been returned.

This fund consists of earnings owing to American citizens, citizens of allied and neutral countries, including citizens of countries with which we were at war but which prior to termination of the war became allies, and citizens of Germany, Austria, Hungary, and Austria-Hungary.

The Supreme Court in *Henkels v. Sutherland* (May 24, 1926) decided that the American citizen is entitled to his share of the earnings, but this decision is undoubtedly applicable to citizens of allied and neutral countries. The Senate amendment provides for the payment to all persons entitled under the decisions of the Supreme Court or other court decisions or under the opinions of the Attorney General to persons entitled to their share of the unallocated interest fund. The House bill, in addition to a provision somewhat similar to that of the Senate amendment, provided for the allocation of the earnings attributable to money of German nationals, the payment into the special-deposit account of the amount of these earnings, the issuance of noninterest bearing participating certificates therefor, and the ultimate return to the German nationals of this amount. Your committee believes that the earnings attributable to money of German nationals in fact belongs to the United States. Under the Senate amendment, accordingly, these earnings are paid into the special-deposit account and no provision is made for their return to the German nationals.

VII. DETAILED ANALYSIS OF THE BILL

SHORT TITLE

Section 1 of the bill, for the purposes of convenient citation in the future, and also in the amendments made by the bill to the trading with the enemy act, provides, as a short title by which the bill when it becomes law may be cited, the "Settlement of war claims act of 1927."

DECLARATION OF POLICY

Section 2 of the House bill contained a declaration of the policy of the United States regarding the payment of the various classes of claims covered by the bill. Since the terms of the bill itself are a

sufficient indication of the policy of Congress, the committee recommends that this section be stricken out.

AWARDS OF THE MIXED CLAIMS COMMISSION

By an agreement signed August 10, 1922, by the United States ambassador to Germany, on behalf of the United States, and the Chancellor of the German Empire, on behalf of the present German Government, it was provided that the claims of the United States Government, and of the nationals of the United States, against Germany should be submitted to a Mixed Claims Commission. The agreement defined the jurisdiction of the commission and prescribed the classes of claims which could be presented. The liability of Germany is based upon the treaty of Berlin. Claims were presented to the commission by the United States, and awards were entered in the name of the United States on behalf of the person in respect of whom the claim was presented. The awards of the commission consist of a principal sum, with interest thereon at the rate of 5 per cent per annum from the date fixed by the commission until the claim is paid. The commission has not yet completed its task, and it is estimated that an additional six months will be required before all the claims are determined and awards entered.

The House bill (p. 2 of the bill as reported to the Senate) provides that the Secretary of State shall from time to time certify to the Secretary of the Treasury awards of the commission. Under subdivision (b) the Secretary of the Treasury is authorized and directed to pay the principal of each award plus the interest thereon accruing before January 1, 1927. Under subdivision (c) he is authorized to pay annually (as nearly as may be) simple interest at the rate of 5 per cent per annum upon the awards payable under subdivision (b) and remaining unpaid, beginning January 1, 1927, until paid.

The payments so authorized are to be made in accordance with regulations prescribed by the Secretary of the Treasury, but are expressly made payable only out of the special deposit account created by a later section of the bill and in the order of priority provided in the bill and later explained in this report.

In order to reimburse the United States for the administrative expenses incurred in the making of these payments and in presenting the claims to the Mixed Claims Commission, subdivision (e) (p. 3 of the bill as reported to the Senate) provides for the deduction from the amount of each payment of an amount equal to one-half of 1 per cent thereof. The committee recommends an amendment to make it clear that the amount so deducted shall be deposited in the Treasury as miscellaneous receipts.

The House bill provided that the amounts awarded to the United States in respect of claims of the United States on its own behalf should not be payable under this section, and by a later section made the payment of such awards the last in order of priority out of the funds in the special deposit account. For reasons already explained in this report, the committee feels that payments to the United States should not be postponed to this extent, and therefore recommends the striking out of this paragraph of the House bill (p. 3 of the bill as reported to the Senate, lines 22-24).

The bill provides for payment only to the person on behalf of whom the award was made, except in a very limited class of cases. Consequently assignments after the award has been entered will not be recognized if the assignment is not within one of the classes specifically authorized.

The bill also provides (p. 5 of the bill as reported to the Senate) that none of these provisions authorizing payments in respect of the awards shall be construed as the assumption of liability by the United States for the payment of the awards, nor as extinguishing or diminishing the liability of Germany, but are to be considered only as an advance by the United States, and it is also provided that any payment to an American national shall be considered as an assignment pro tanto of his claim to the United States.

At the time of signing the agreement there was an exchange of notes between the representatives of the United States and of Germany, under which it was agreed that the commission should consider only claims, notices of which were filed within the period of six months from the date of the first meeting of the commission (that is, on or before April 9, 1923). The committee amendment (p. 6 of the bill as reported to the Senate) requests the President to enter into an agreement with Germany, under which claims which were barred by the six months' period, but which had been presented to the commission, the State Department, the Alien Property Custodian, or other agencies or offices of the United States before January 1, 1927, may be considered by the commission and awards entered. Under the system of priority in payments established by the bill (explained hereinafter), it will not be possible to pay American nationals (except for awards for death and personal injury) more than \$100,000 each until the total amount of all awards is known. It is apparent that if the new agreement contemplated is long delayed, great injustice will be done Americans who have prosecuted their claims diligently. The committee amendment, therefore, provides that no awards in respect of the late claims shall be certified or paid unless the agreement is entered into before January 1, 1928. It is expected that the agreement itself will specify the time within which the claims may be presented to the commission.

SHIP, PATENT, AND RADIO STATION CLAIMS

Section 4 of the House bill provided for the appointment of an arbiter to hear the claims of German nationals and to enter awards in respect of ships taken by the United States, under the authority of the joint resolution of May 12, 1917; in respect of any patent which was licensed, assigned, or sold to the United States by the Alien Property Custodian; and in respect of the use of any patent by the United States (but only if the patent used was among those seized by the Alien Property Custodian), including use prior to the seizure by the Alien Property Custodian as well as after seizure, but excluding use during the war period and excluding use after the Alien Property Custodian disposed of the patent, whether to the United States or to private concerns. The measure of the compensation was prescribed in the bill. In the case of ships particularly the measure of the compensation seemed difficult of application, and might well result in an award far below the intrinsic value of the

ship. (See, for example, the case of the Housatonic Steamship Co., decided by the Mixed Claims Commission.) The House bill placed a maximum of \$100,000,000 on all payments in respect of ships, patents, and radio stations, including expenses of administration.

The committee proposes to strike out section 4 of the House bill and to insert a section (sec. 3, p. 17 of the bill as reported to the Senate) dealing exclusively with ship claims. Under the committee amendment the value of the ship is the appraised value determined shortly after the taking by the Naval Board of Survey appointed under the provisions of the joint resolution. The compensation payable in respect of each vessel is to be this amount, plus interest thereon from July 2, 1921 to January 1, 1927. In the case of a few vessels not so appraised, the compensation payable is to be the value as determined by a new board of survey in accordance with the methods and principles used by the old board, with interest as above.

In each case interest at 5 per cent will be paid on the unpaid amount of the principal and interest thus determined from January 1, 1927, until paid.

In order to provide for the distribution of the amount due for any ship it is provided that persons claiming an interest therein, either as owners or under a mortgage, lien, or other encumbrance in existence at the time of the taking and which has not been completely satisfied under the laws applicable thereto, may file their claims with the Court of Claims. The court will determine the proportionate interest of the various claimants in any vessel and make an award to each claimant. It is further provided that if a German national files a claim as owner (as distinguished from a claim of a mortgagee or lienor) the burden of proof is upon him to show that neither the German Government nor any member of the former ruling family had at the time of taking any interest in the vessel or any corporation which owned the vessel, through stock control or otherwise. If this is not proved, it is provided that no award shall be made to the German national unless and until the extent of the interest of the German Government and of the members of the former ruling family has been determined. If the court determines that the German Government had an interest in the vessel, an award will be entered in the name of the German Government for the extent of its interest, and the amount which would otherwise be awarded to the German national will be reduced accordingly. The awards to the German Government, however, will not be paid but will be credited against the last payments from Germany in satisfaction of the awards of the Mixed Claims Commission.

The committee amendment recommends in place of \$100,000,000 authorization in the House bill, under the scheme of the House bill as described above, an authorization of \$50,000,000 for deposit in the special deposit account. The use to be made of any appropriations made under this authorization is described under the next heading.

The committee amendment adopts the provisions of the House bill relating to the prohibition of assignments, and the provisions requiring dismissal of pending suits prior to payment of the award.

FUNDS AVAILABLE FOR PAYMENT

The House bill (p. 24 of the bill as reported to the Senate) provides for the creation in the Treasury of a special deposit account and provides that the following amounts shall be deposited therein:

(1) The amounts temporarily retained by the Alien Property Custodian (40 per cent under the Senate bill and 20 per cent under the House bill):

(2) The unallocated interest fund (approximately \$25,000,000);

(3) The amount of the appropriation for the payment of ship claims; that is \$50,000,000 (but 60 per cent of it is made available only for the payment of ship claims); and

(4) All receipts by the United States, whether before or after the enactment of the bill, in respect of claims of the United States against Germany on account of awards of the Mixed Claims Commission. This includes all receipts under the Paris agreement and all receipts under any future agreement which might take the place of the Paris agreement.

Except for clerical changes in section numbers and references, no amendment is made to these provisions of the House bill.

PRIORITY OF PAYMENTS

The House bill (subdivision (c) on p. 24) prescribes the priorities of payments out of the special deposit account.

These payments are to be made as follows:

(1) The administrative expenses of the Secretary of the Treasury, not in excess of \$25,000 per annum, incurred in making the payments, in making the allocation of the unallocated interest fund, and in issuing the participating certificates and making payments thereon.

(2) The principal amount awarded by the Mixed Claims Commission on account of death or personal injury, and the interest thereon accruing before January 1, 1927, and interest at 5 per cent per annum upon the unpaid amount of such principal and interest from January 1, 1927, until the date of payment. In the case of an award based both upon a claim for death or personal injury and upon a claim for property damaged, for example, the amount of the award attributable to the claim for death or personal injury will be paid under this paragraph, and the balance of the award will be treated as a separate award and paid under the appropriate paragraph.

(3) The principal of each award and the interest thereon accruing before January 1, 1927, if the sum of such amount is less than \$100,000 and interest at 5 per cent per annum upon the unpaid amount of such principal and interest from January 1, 1927, until the date of payment. Under this paragraph and paragraph (2), the interest accruing after January 1, 1927, is made payable at the same time as the principal for purposes of administrative simplicity, for in such manner a very large percentage of the awards are immediately settled in full and the accounts closed.

(4) After the payments in paragraphs (2) and (3) (and there will be adequate money in the special deposit account to make such payments immediately), the amount of \$100,000 is paid upon each award remaining unpaid. In determining whether an award is payable under paragraph (3) or (4), it will be noted that the interest

accruing prior to January 1, 1927, is added to the principal of the award, but that the amount to be deducted as reimbursement for the expenses incurred by the United States (under subdivision (e) of section 3 of the House bill) is not taken into consideration. The Senate amendment to paragraph (4) provides that if a person has more than one award, he is to receive not more than \$100,000 in payment under both paragraphs, exclusive of the interest payable under paragraph (3) accruing after January 1, 1927. The Senate amendment, however, does not affect the amount of the payments in cases where more than two persons are interested in the same award, and accordingly not more than \$100,000 will be paid upon such an award, irrespective of the number of persons interested.

(5) Next there is to be distributed among the American nationals (not including the United States itself) such sums as will make the total payments to all of them (including payments already made under paragraphs (2), (3), and (4)) equal to 80 per cent of the sum of all awards (except to the United States on its own behalf) including interest thereon up to January 1, 1927. It should be noted that this is not the equivalent of paying each claimant 80 per cent of his award. Under the bill American private claimants are only given priority as a class up to 80 per cent of the total awards to them. If funds are not sufficient to give each claimant 80 per cent of his award, the funds are divided pro rata on the basis of amounts remaining unpaid. The United States itself is not given any priority up to this point.

(6) An amount equal to 60 per cent of the appropriation made under section 3 is segregated (under subdivision (d) on page 29 of the bill), and paragraph (6) provides for the payment of this amount upon the ship claims. This amount, however, will be distributed among the various claimants to whom the award has been made in respect of any one vessel, and priority is given to persons other than German nationals. A simple example will illustrate the payments under this paragraph: Assume that the Navy appraisal of a vessel was \$1,000,000; the Court of Claims determines that the "X" corporation was the sole owner of the vessel, and that the German Government owned 10 per cent of the stock of the corporation; the court also determines that an American lienor, whose lien was in existence at the time of the taking of the vessel and has not been extinguished, is entitled to \$700,000; and awards are entered accordingly and certified to the Secretary of the Treasury. The Secretary of the Treasury would pay the American lienor under paragraph (6) the sum of \$600,000 (60 per cent of the aggregate amount of all the awards in respect of the vessel), and his remaining \$100,000, plus the interest, will be paid under paragraph (9) (of the Senate bill), prior to any payments thereunder to the German owner. After the payments to the American lienor and as funds are available the German owner will be paid \$200,000, plus interest. The award to the German Government will not be paid.

Paragraph (6) of the House bill provided for the payment of tentative awards of the arbiter. Inasmuch as the committee amendment places the payments upon the basis of the Navy appraisal, this provision is eliminated.

Paragraph (7) of the House bill provided for the payment of 50 per cent of the amounts awarded in respect of ship, patent, and

radio station claims. The committee amendment strikes out this paragraph and inserts in lieu thereof paragraph (6) above explained.

(7) Having paid an amount equal to 80 per cent of the awards of the Mixed Claims Commission (in the priorities above explained) and the payment of the 60 per cent of the awards in respect of ship claims, the next payment from the funds in the special deposit account will be the accrued interest upon the 40 per cent of the alien property temporarily withheld.

(8) The payment of the accrued interest upon the amounts remaining unpaid of the awards of the Mixed Claims Commission and the awards upon ship claims is next in priority. Interest payable upon the awards to the United States on its own behalf is not paid under this paragraph.

(9) After the above payments, the funds going into the special deposit account are to be applied in reducing the amounts remaining unpaid upon the awards of the Mixed Claims Commission and the ship awards, in returning the 40 per cent of the alien property, and in payment of the awards to the United States on its own behalf. Under the House bill the payment of the awards to the United States on its own behalf was postponed until after all private claims had been paid in full and the unallocated interest fund returned. The committee amendment, however, places the United States upon the same basis as the private claimants and the alien property owner, as above explained.

The House bill provided that, next in priority, the unallocated interest fund should be returned to the German nationals, in the amounts allocated to them. Inasmuch as the \$25,000,000 of the unallocated interest fund was to be immediately deposited in the special deposit account, and inasmuch as it was possible that the total amount attributable to the money of German nationals might be less than that amount, the House bill provided that not more than the amount actually allocated should be returned under this paragraph. The bill as amended by the committee does not authorize the return of the amounts deposited from the unallocated interest funds and paragraph (11) of the House bill is stricken out.

Paragraph (12) of the House bill provided for the payment of the awards to the United States on its own behalf. The committee amendment provides for the payment of this award under paragraph (9), as above explained. Accordingly, this paragraph of the House bill is stricken out.

Paragraph (10) (par. (13) of the House bill) provides for the payment into the Treasury as miscellaneous receipts any funds remaining in the special deposit account after the payment above described.

Subdivision (d) of section 5 of the House bill provided for the segregation of 50 per cent of the amounts appropriated in respect of ship, patent, and radio-station claims. The committee amendment rewrites this subdivision and provides for the segregation of 60 per cent of the amount appropriated for ship claims.

Subdivision (e) of the House bill makes available the funds in the special deposit account, not in excess of \$25,000 per annum, for the expenses of the Secretary of the Treasury in making the payments under this section, in issuing participating certificates, and in allocating the unallocated interest fund.

Subdivision (f) of section 5 of the House bill permits the Secretary of the Treasury to invest the funds in the special deposit account in bonds, notes, or certificates of indebtedness of the United States, the earnings to be deposited in the account.

In certain cases an American creditor could file his claim with the Mixed Claims Commission and also proceed under section 9 of the trading with the enemy act to collect his debt out of any money or other property of the debtor in the hands of the Alien Property Custodian. The Mixed Claims Commission required the claimants to file waivers of their rights to proceed under the trading with the enemy act. It is believed that the waivers were filed and observed. However, as a precautionary measure, the committee proposes to add a new subdivision (subdivision (g), on p. 30, line 18) to prohibit double payment. The committee amendment provides that the amount collected from the Alien Property Custodian shall be credited against the amounts first payable under this section. Thus, for example, if the award is \$150,000, and the amount collected from the Alien Property Custodian was \$100,000, the claimant will be entitled to priority in the payment of the remaining \$50,000, only to the same extent as if the \$100,000 had been paid him by the Secretary of the Treasury under the terms of the bill.

Subdivision (h), as added by the committee, provides for the return to the Treasury of any excess of the appropriation for the payment of ship claims, over the aggregate amount of the awards (including awards to the German Government) plus the interest thereon prior to January 1, 1927, and plus the interest accruing after January 1, 1927, until the amounts payable under paragraph (6) of subdivision (c) of this section (the 60 per cent) are paid.

FINALITY OF DECISIONS

The House bill (p. 31 of the bill as reported to the Senate) provides that the decisions of the Secretary of the Treasury in respect of the funds to be paid into the special deposit account and of the payments therefrom shall be final and conclusive, and not subject to review by any other officer of the United States, except that the payments out of the special deposit account necessary for expenses in administering that fund and the expenses of issuing the participating certificates evidencing the investment of the 40 per cent of the alien property retained, shall be accounted for and settled through the usual channels. The House bill also provides that the Secretary of the Treasury, in his annual report to Congress, is to include a detailed statement of all expenditures made in carrying out the provisions of the bill. The committee recommends no change in these provisions, except a clerical change made necessary by other committee amendments.

EXCESSIVE ATTORNEYS' FEES

The House bill (p. 31 of the bill as reported to the Senate) provides that the United States commissioner of the Mixed Claims Commission is authorized to fix reasonable fees for services in connection with proceedings before the commission, and with the application for payment of awards of the Mixed Claims Commission by the Secretary

of the Treasury. It further provides that any person accepting any consideration (whether or not under a contract entered into prior to the enactment of the bill) in excess of an amount so fixed for such services, shall upon conviction be punished by a fine equal to four times the aggregate value of the consideration accepted. The bill also amends section 20 of the trading with the enemy act, which imposed a criminal penalty for receiving excessive fees for services in connection with the return of property in the hands of the Alien Property Custodian, so as to make the section applicable without question to attorneys at law as well as to attorneys in fact. The committee recommends no change in these provisions except certain clerical amendments made necessary by other committee amendments. The committee, however, felt that the criminal penalties were not sufficient to correct the evil aimed at and, therefore, recommends insertion of a new subdivision (appearing on p. 32 of the bill as reported to the Senate) under which any person who takes excessive fees shall, whether or not convicted of such violation, be ineligible to practice before any department, agency, or officer of the United States.

INVESTMENT OF RETAINED 40 PER CENT

The House bill (p. 33 of the bill as reported to the Senate) adds a section 25 to the trading with the enemy act, which directs the Alien Property Custodian to invest the percentage of the alien property which is temporarily retained under the bill. This percentage is to be transferred to the Treasury for the account of the special deposit fund, and as an evidence of this investment the Secretary of the Treasury is to issue one or more participating certificates bearing interest at the rate of 5 per cent per annum. The United States is to assume no liability for the payment of these certificates or their interest, except out of funds in the special deposit account available therefor. A certificate shall not be transferable, except that if a substantial number of the owners of the money invested can agree upon the appointment of a trustee the Alien Property Custodian is authorized to transfer to him the participating certificate evidencing their interest. Under this system, trustees, as fast as the moneys are repaid, will apportion them among the beneficiaries. Money not returned to such trustees will be returned to the owners by the Alien Property Custodian as the payments are received by him.

The House bill also provides for the investment in the special deposit account by the Alien Property Custodian of the so-called "unallocated interest fund" (described later in this report) and the issue of participating certificates representing this investment, the result of which would have been that the German share in this fund would eventually have been returned to them. The committee, believing that the unallocated interest fund so far as it is attributable to earnings from the property of German nationals, rightfully belongs to the United States and not to the German nationals, provides in an amendment for the deposit of so much of the fund in the special deposit account, but recommends that no part be returned to the German nationals. The sections as proposed by the House and as recommended by the committee are substantially in accord in retaining in the hands of the Alien Property Custodian such portion of the unallocated interest fund as is properly allocable to United States

citizens, and citizens of allied and neutral nations, as well as to Austrian and Hungarian nationals.

The House bill also provides for payment into the special deposit account of money and other property belonging to the German Government or any member of the former ruling family, and of money or other property the ownership of which can not be determined within two years from the passage of the bill. The amounts so transferred are to be credited upon the final payment due the United States from the German Government on account of the awards of the Mixed Claims Commission. The committee recommends no change in this provision, except to make it clear that any debts of the German Government to United States citizens shall be satisfied before the transfer to the special deposit account.

The committee also recommends the insertion (p. 37 of the bill as reported to the Senate) of a paragraph stating directly what was inferentially stated by the House bill, that the 40 per cent of the alien property retained should be paid to them as fast as funds in the special deposit account are available.

RETURN OF ALIEN PROPERTY

Section 9 of the House bill (pp. 37-39) proposes to add to subsection (b) of section 9 of the trading with the enemy act several new paragraphs. New paragraphs (12), (13), and (14) provide for the return of money or other property held by the Alien Property Custodian to citizens, partnerships, associations, or corporations of Germany. The return, however, is conditioned upon the filing of a written consent for the temporary retention of 40 per cent.

New paragraph (15) provides for the return of all the money or other property of the Austro-Hungarian Bank, in order that the liquidators may make distribution of the assets to the nonenemy countries. A bond is required conditioned upon the return to the Alien Property Custodian of the distributable share of the Government of Austria or Hungary.

New paragraph (16) provides for the return to any individual who is not a citizen or subject of Austria or Hungary, without the necessity of proof of his nationality, if he files the written consent to the temporary retention of 40 per cent and if he files a waiver renouncing all right to a return under any other provision of the act, even if he should subsequently be able to prove that he was an American citizen or a citizen of any other country the citizens of which are entitled to the return of all their property.

The Senate amendment proposes to add a new paragraph, paragraph (17), providing for the return of all the property to a limited number of individuals who were at the time of the seizure of their property citizens or subjects of Germany or Austria-Hungary, and who were actually living within the United States from the time of the seizure until after the armistice. In order to place these individuals in as favorable a position as persons who were interned during the war. Paragraph (5) of subsection (b) of section 9 of the trading with the enemy act, as now in force, provides for the return of all the money or other property to persons who were interned.

Subdivision (a) of section 10 of the House bill (pp. 39, 40 of the bill as reported to the Senate) amends subsection (d) of section 9 of

the trading with the enemy act in order to authorize the return to any person eligible as a claimant under subsection (a), (b), or (n), and to provide for the return to a foreign executor or administrator without the necessity of the appointment of a legal representative in the United States.

Subdivision (b) of section 10 of the House bill amends subsection (e) of section 9 of the trading with the enemy act, so as to permit the payment to a creditor only if his claim was filed prior to the date on which the bill becomes law.

Subdivision (c) of section 10 of the House bill (pp. 40, 41) amends subsection (g) of section 9 of the trading with the enemy act, in order to permit the Alien Property Custodian to return to a legal representative even if not appointed by a court in the United States, if he is satisfied of the status of the legal representative, and also to permit the return to a legal representative of a person eligible as a claimant under subsection (a), (b), or (n) of section 9. Subsection (g) now provides only for the return to the legal representative of an American citizen, and this amendment places citizens of all non-enemy countries upon an equality.

RETURN OF PATENTS, TRADE-MARKS, ETC.

The Winslow Act of March 4, 1923, authorized the Alien Property Custodian to return any patent, trade-mark, copyright, etc., held by him which had not been sold, licensed, or otherwise disposed of. The House bill (p. 41 of the bill as reported to the Senate) also authorizes the return of patents, trade-marks, copyrights, etc., which have been licensed, but such return shall be subject to the license and also subject to any contract, lien, or encumbrance in respect thereof.

The House bill also provides (p. 42 of the bill as reported to the Senate) that the paragraphs authorizing the return of 60 per cent of German property should apply to the proceeds from the sale, license, or other disposition of patents, trade-marks, copyrights, etc. The committee sees no reason for restricting this provision to cases of return to German nationals of 60 per cent of their property and, therefore, recommends the broadening of the section so that all provisions for the return of property shall apply to the proceeds received from the sale, license, or other disposition of patents, etc. It is provided, however, that the proceeds of the patents sold or licensed to the United States and to the Chemical Foundation shall be returned in full without retention of the 40 per cent thereof.

RETURN OF ROYALTIES

Under subsection (f) of section 10 of the trading with the enemy act, the Alien Property Custodian has instituted certain suits as the "owner" of certain patents. In the event that it should be ultimately held that the suits were properly instituted, the amendments proposed by the House bill provides that the royalties paid to him will be returnable under section 9. All other money paid to the Alien Property Custodian under section 10, however, is to be treated in accordance with the provisions of section 10.

RETENTION OF 40 PER CENT OF ALIEN PROPERTY

The House bill proposed the addition to section 9 of the trading with the enemy act of a new subsection (m) under which no money or other property should be returned under the bill to German nationals and in certain other cases unless the person entitled thereto consents in writing to the retention and deposit in the special deposit account of an amount equal to 20 per cent thereof, as determined by the Alien Property Custodian. This provision (appearing on p. 43 of the bill as reported to the Senate) has been amended so as to require written consent to a retention of 40 per cent instead of 20 per cent, for reasons explained earlier in this report. It is also recommended by the committee that it be made clear that the valuation by the Alien Property Custodian should be made, as nearly as possible, as of the time of the return. The 40 per cent is to be deducted from the money to be returned so far as possible, and the balance is to be deducted from the proceeds of the sale of property other than money, with the option in the claimant of paying the balance to the Alien Property Custodian in cash. In no case is any property to be sold prior to six years from the passage of the bill without the consent of the claimant. The 40 per cent so deducted is to be returned to the persons entitled thereto out of the special deposit account as soon as the moneys in that fund are sufficient.

RETURN OF ASSIGNED PROPERTY

The trading with the enemy act has been construed as not permitting the return of any money or other property to any person holding under an assignment from the person who owned the property at the time of seizure. The House bill (p. 44 of the bill as reported to the Senate) relaxes this rule in one respect which meets with the approval of your committee. It appears that in a number of cases, and particularly of railroad corporations, large blocks of stock were held by German banks, and these banks, prior to the war, issued certificates of interest which were sold in the open market and on the stock exchange, and have been transferred from hand to hand. The Alien Property Custodian was not able to seize the actual stock certificates, and therefore made demand upon the corporation for the transfer on its books of the certificates held by the German bank. The House bill provides in these cases for the return to the holder of the certificates issued by the bank of 60 per cent of the right in the property, despite the fact that he can not prove that he was the owner at the time the property was seized by the Alien Property Custodian. It is also provided that any person entitled under this provision of the House bill may file claim and bring suit, and that in the event of his death, claim may be filed or suit brought by his legal representative.

SAVING OF EXISTING RIGHTS

The House bill provides (p. 44 of the bill as reported) that the provisions of the bill relating to the return to German nationals of 60 per cent of their property held by the Alien Property Custodian should not be construed as diminishing any of the rights conferred by the trading with the enemy act before its amendment by this bill.

This provision of the House bill has not been changed by the committee.

COLLECTION OF DEBTS ON DEATH OR TERMINATION OF CORPORATE EXISTENCE

Subsection (a) of section 9 of the trading with the enemy act provides that the person who is owed a debt from an alien whose property is held by the Alien Property Custodian may collect the amount of his debt out of this property. Cases have arisen where by reason of death of the person whose property has been seized, or in the case of a corporation by reason of the termination of its existence, the property has come into the ownership of the heir or stockholder. A technical interpretation of the present law may prevent making this property liable for the debts of the successor. It seemed to your committee that the creditor of the successor should have a right to resort to this property in satisfaction of his debt, and the bill as reported recommends (p. 45 of the bill as reported to the Senate) the addition of a new subsection (p) to section 9 of the trading with the enemy act, caring for this situation so that the provisions of section 9 relating to collection of debts out of property held by the Alien Property Custodian shall be applicable to the debts of the successor, and so that such debt shall be collected out of the property to which he has succeeded, to the extent that it is not already chargeable with the debts of the predecessor. The section has important illustration in the case of debts owing by the German Government. Judgments have already been rendered by the courts under which the entire amount of the property which can be identified as belonging to the German Government has been paid out in satisfaction of debts of that Government. It now appears that the German Government by reason of the dissolution of certain corporations in which it was the chief stockholder has become entitled to the corporate assets. The committee amendment therefore will make this amount available to satisfy the unpaid portion of these judgments in respect of debts of the German Government.

ALLOCATION OF PATENT PROCEEDS

Many of the patents, trade-marks, copyrights, etc., held by the Alien Property Custodian were sold, licensed, or otherwise disposed of by him in lots of more than one without allocating to the various items included in the sale their particular portion of the consideration. Thus, for example, 5,089 patents were sold to the Chemical Foundation for an aggregate consideration of \$271,850. Inasmuch as the bill as reported by the committee provides for the return to the owner of the proceeds thus received, the bill (p. 45) adds a subsection (q) to section 9 of the trading with the enemy act making it the duty of the Alien Property Custodian to allocate, in such manner as he deems just and equitable, any consideration received in lump-sum sales of two or more patents, trade-marks, copyrights, etc., in all cases where the proceeds have not been allocated before the passage of the bill. The determination of the Alien Property Custodian in this respect is to be final.

CALIFORNIA FIRE INSURANCE CLAIMS

At the time of the San Francisco earthquake and fire disaster of 1906, several German insurance companies claimed that their assets were not sufficient to pay the losses to their policyholders, and made settlements with their policyholders for a small portion of their claims. It now appears that these companies have large assets in this country held by the Alien Property Custodian. In the Winnow Act of March 4, 1923, which provided for the return to German nationals of \$10,000 of their property, a provision was inserted that no insurance company against which any claim had been filed with the Alien Property Custodian by any United States citizen could get the \$10,000 until the claims were satisfied, whether or not the claims appeared to be barred by the statute of limitations. This policy is carried out by a committee amendment (appearing on p. 46 of the bill as reported) under which none of these companies can avail themselves of any of the benefits extended by the bill until these claims are satisfied, irrespective of the size of the claims and whether or not a sufficient sum to pay them would remain. It is further provided that 40 per cent of their property shall be turned over to the special deposit account for the payment of the claims of American nationals against Germany.

UNALLOCATED INTEREST FUNDS

Under section 12 of the trading with the enemy act all money seized, the proceeds of property sold, and all earnings accruing on property held, by the Alien Property Custodian were deposited in the Treasury and invested in United States obligations. The earnings and profits resulting from these investments (including both interest, profit from resale, and maturing obligations), plus the earnings and profits on these earnings and profits down to March 4, 1923, have never been allocated among the various trusts whose moneys were so deposited in the Treasury. The above earnings and profits, together with the earnings and profits accumulated since March 4, 1923, on the earnings and profits accumulated before March 4, 1923, are known as the unallocated interest fund. Section 12 of the bill adds (p. 50 of the bill as reported) a new section 26 to the trading with the enemy act defining this term and correcting the definition made by the House bill (p. 49 of the bill as reported).

The House bill (p. 47 of the bill as reported) added a new section to the trading with the enemy act, providing for the allocation among various trusts of this unallocated interest fund. In view of the recommendation of the committee that the unallocated interest really belongs to the United States and not to the alien whose property was seized, the necessity for the allocation disappears and it is, therefore, recommended that this provision of the House bill be stricken out.

COMPROMISE OF DEMANDS BY THE ALIEN PROPERTY CUSTODIAN

There are many cases where the Alien Property Custodian, acting under the provisions of the trading with the enemy act, has made demands upon enemies and allies of enemies and upon persons holding their property, for the delivery or payment to him of such property. In the case of German nationals who are entitled under the bill to the immediate return of 60 per cent of the money, it seems to the committee an unnecessary burden to require the payment under these demands of the Alien Property Custodian, inasmuch as upon the collection of the amount of the demand, it would be his duty to immediately return all or at least 60 per cent of it. The committee amendment in section 12 of the bill adds (p. 50 of the bill as reported) a new section 27 to the trading with the enemy act authorizing the Alien Property Custodian to waive or compromise these demands on such terms and conditions as he may prescribe, if, as a result of the transaction, there will remain in his hands 40 per cent of the total amount of the money or other property belonging to the alien and seized or subject to seizure by the Alien Property Custodian.

RETURN OF INCOME

Under section 23 of the trading with the enemy act, the Alien Property Custodian is directed to pay the dividends, interest, and other earnings accruing after March 4, 1923, to the person entitled thereto, but no person is to be paid any amount in excess of \$10,000 a year. The result of this limitation has been that since March 4, 1923, sums in excess of this amount have accumulated accruing since that date. Section 13 of the bill, added by the committee amendment, amends section 23 of the trading with the enemy act so as to provide for the immediate return of 60 per cent of these earnings to all persons other than Austrian-Hungarian nationals, and the return to these same persons of future earnings without limit of amount.

DEFINITIONS

Section 14 of the bill defines the terms used in the act. Two of the terms defined by the House bill are not used in the bill as reported by the committee. The definition of these terms is, therefore, recommended to be stricken from the bill.

APPENDIX A

ENEMY VESSELS HELD BY THE UNITED STATES GOVERNMENT

Enemy vessels, equipment, appurtenances, and all other property contained therein, including fuel, consumable supplies, cargo, etc., in accordance with the act of Congress approved May 12, 1917, and as appraised by the Navy Department board to appraise enemy vessels, as per copy of their letter dated June 14, 1918.

Adamsturm.....	\$209,650	Nassovia.....	\$94,970
Allemanntia.....	71,700	Neckar.....	424,260
Amerika.....	1,588,390	Nicaria.....	84,820
Andalusia.....	100,360	O. J. D. Ahlers.....	288,060
Andromeda.....	153,600	Ockenfels.....	252,990
Arcadia.....	86,940	Odenwald.....	123,760
Arnoldus Vinnen.....	23,500	Ottawa.....	30,300
Armenia.....	86,150	Pennsylvania.....	408,830
Barbarossa.....	463,710	Pisa.....	84,380
Bochum.....	781,300	Pommern.....	518,910
Bohemia.....	246,400	Pongtong.....	78,420
Borneo.....	82,800	Portonia.....	89,100
Breslau.....	222,080	President.....	87,250
Bulgaria.....	215,020	President Grant.....	1,248,680
Camilla Rickmers.....	417,210	President Lincoln.....	1,266,420
Carl Diederichsen.....	44,390	Prinz Eitel Friedrich.....	142,400
Cincinnati.....	1,386,730	Prinz Joachim.....	167,130
Clara Mennig.....	99,200	Prinz Oskar.....	200,150
Coblenz.....	92,440	Prinz Sigismund.....	137,810
Dalbek.....	32,370	Prinz Waldemar.....	100,430
Darvel.....	67,230	Princess Alice.....	506,780
Elmshorn.....	210,680	Princess Irene.....	503,460
Elsass.....	469,810	Rajah.....	84,970
Essligen.....	243,880	Rhaetia.....	253,820
Frieda Leonhardt.....	81,130	Rhein.....	397,560
Friedrich der Grosse.....	432,620	Rudolph Blumberg.....	98,050
George Washington.....	2,357,300	Sachsen.....	487,700
Grosser Kurfurst.....	606,350	Sachsenwald.....	124,200
Gouverneur Jaeschke.....	46,700	Sambia.....	102,730
Grunewald.....	239,300	Savoia.....	34,870
Hamburg.....	448,930	Saxonia.....	86,440
Harburg.....	105,660	Serapis.....	136,270
Hermes.....	16,900	Setos.....	130,210
Hohenfelde.....	33,330	Staats sekretar Kraetke.....	77,400
Holsatia.....	249,900	Steinbek.....	36,800
Indra.....	27,910	Suevia.....	146,150
Johanne.....	63,170	Tsintau.....	45,820
Kaiser Wilhelm II.....	1,178,160	Tubingen.....	182,990
Kiel.....	112,240	Vaterland.....	7,020,260
Koln.....	184,140	Vogesen.....	117,660
Konig Wilhelm II.....	719,100	Wiegand.....	26,560
Kronprinzessin-Cecilie.....	1,765,960	Willehad.....	89,100
Kurt.....	84,230	Wittkind.....	112,130
Loongmoon.....	34,500	Adelheid.....	94,870
Lyeemoon.....	31,390	Bavaria.....	151,250
Madgeburg.....	112,310	Constantia.....	87,000
Maia.....	101,200	Oliyant.....	141,200
Mark.....	362,940		
Marudu.....	67,800		
Matador.....	360,710		
		Total.....	34,193,690

APPENDIX B

STATISTICS SHOWING PAYMENTS UNDER THE BILL AS REPORTED TO THE SENATE

Payment to American nationals of Mixed Claims Commission awards

(1) 396 death and personal injury claims.....	\$3,151,003.00	
Interest at 5 per cent thereon to Jan. 1, 1927.....	498,979.64	
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Total allowed to Feb. 2, 1927, with interest to Jan. 1, 1927.....		\$3,649,982.64
(2) 2,312 awards of \$100,000 and less.....	14,121,943.74	
Interest at 5 per cent thereon to Jan. 1, 1927.....	5,908,894.96	
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Total allowed to Feb. 2, 1927, with interest to Jan. 1, 1927.....	20,030,838.70	
Estimated yet to be allowed:		
Principal.....	\$7,100,000	
Interest to Jan. 1, 1927.....	2,600,000	
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	9,700,000.00	29,730,838.70
(3) 162 awards over \$100,000.....	86,167,390.54	
Interest at 5 per cent to Jan. 1, 1927.....	35,031,671.58	
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Total allowed to Feb. 2, 1927, with interest to Jan. 1, 1927.....	121,199,062.12	
16 estimated yet to be allowed:		
Principal.....	\$17,300,000	
Interest to Jan. 1, 1927.....	6,900,000	
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	24,200,000.00	145,399,062.12
Total estimated awards with interest.....		178,779,888.46

ESTIMATED CREDITS TO SPECIAL DEPOSIT ACCOUNTS

(1) 40 per cent German property (A. P. C.) to be retained.....	\$80,000,000.00
(2) German share of unallocated interest fund.....	25,000,000.00
(3) Mixed Claims receipts—2¼ per cent to Sept. 1, 1927.....	14,000,000.00
(4) 40 per cent of appropriation for ships.....	20,000,000.00
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Total available for expenditures.....	\$139,000,000.00

ESTIMATED EXPENDITURES FROM SPECIAL DEPOSIT ACCOUNT

(1) Death and personal injury claims in full.....	\$3,649,982.64
(2) All awards up to and including \$100,000.....	29,730,838.70
(3) \$100,000 each on all other awards (178).....	17,800,000.00
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Assuming payments are to be made Sept. 1, 1927, add interest at 5 per cent on (1) and (2) from Jan. 1, 1927.....	51,180,821.34
	1,113,000.00
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	52,293,821.34
Balance to be apportioned on claims over \$100,000.....	86,706,178.66
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	139,000,000.00

SETTLEMENT OF WAR CLAIMS BILL OF 1937

80 per cent of total mixed claims awards (\$178,779,883.46).....	\$148,000,000.00
Interest at 5 per cent from Jan. 1, 1927, to Sept. 1, 1927, on (1) and (2) above.....	1,118,000.00
	<u>144,118,000.00</u>
Total available receipts as of Sept. 1, 1927.....	<u>189,000,000.00</u>
Balance of unpaid awards (80 per cent) subject to priority in Dawes annuities received after Sept. 1, 1927.....	5,113,000.00
Dawes annuity for 1928.....	7,000,000.00
	<u>12,113,000.00</u>
Balance Dawes annuity for 1928 to apply on account of ac- crued and unpaid interest on (a) below.....	1,887,000.00
Dawes annuity for 1929.....	10,700,000.00
	<u>12,587,000.00</u>
Total available Sept. 1, 1929.....	12,587,000.00
(a) Interest at 5 per cent from Sept. 1, 1927, to Sept. 1, 1929, on \$80,000,000 participating certificates delivered to Alien Property Custodian for 40 per cent German property retained.....	\$8,000,000
(b) Interest at 5 per cent from Jan. 1, 1927, on balance 80 per cent mixed claims.....	3,900,000
(c) Interest at 5 per cent from Jan. 1, 1927, to Sept. 1, 1929, on \$36,000,000 (20 per cent) mixed claims deferred.....	4,800,000
(d) Interest at 5 per cent from Sept. 1, 1928, to Sept. 1, 1929, on deferred ship claim pay- ments.....	1,000,000
	<u>17,700,000.00</u>
Balance accrued interest due Sept. 1, 1929.....	5,113,000.00
Interest at 5 per cent from Sept. 1, 1929, to Sept. 1, 1930, on (a), (c), and (d) above.....	6,800,000.00
	<u>11,913,000.00</u>
Total.....	11,913,000.00
Dawes annuity for 1930.....	10,700,000.00
	<u>22,613,000.00</u>
Balance accrued interest due Sept. 1, 1930.....	1,213,000.00
Interest at 5 per cent from Sept. 1, 1930, to Sept. 1, 1931, on (a), (c), and (d) above.....	6,800,000.00
	<u>8,013,000.00</u>
Dawes annuity for 1931.....	10,700,000.00
	<u>18,713,000.00</u>
Balance Dawes annuity for 1931 to apply on principal of deferred payments.....	2,687,000.00
Deferred payments:	
(a) German property retained.....	\$80,000,000
(b) Mixed claims (20 per cent of \$178,779,883.46).....	36,000,000
(c) Ship claims.....	20,000,000
(d) Principal of Government's claims (in- cluding interest to Jan. 1, 1927).....	59,000,000
	<u>195,000,000.00</u>
Balance to be amortized at 5 per cent out of Dawes annuities received after Sept. 1, 1931 (\$10,700,000 per annum), 47 years.....	192,313,000.00

Time required after Sept. 1, 1927 (approximate):	Years
To pay off 80 per cent mixed claims awards.....	1
To pay off accrued and unpaid interest to Sept. 1, 1931, and current interest (exclusive of Government interest).....	3
To amortize remaining principal of deferred payments amounting to \$192,313,000 at 5 per cent will require.....	47
To pay off interest accrued on principal of Government's claims from Jan. 1, 1927, to Sept. 1, 1931.....	1
Total.....	52