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SENATE

} REPORT
No. 886

LATE-CLAIMS AGREEMENT PURSUANT TO SETTLEMENT OF WAR CLAIMS ACT OF 1928

JUNE 9 (calendar day, JUNE 11), 1930.—Ordered to be printed

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

R E P O R T

[To accompany H. R. 8881]

The Committee on Finance, to whom was referred the bill (H. R. 8881) to carry out the recommendation of the President in connection with the late-claims agreement entered into pursuant to the settlement of war claims act of 1928, having considered the same, report it back to the Senate without amendment and recommend that the bill do pass.

Following is the House report on the bill:

[House Report No. 694, Seventy-first Congress, second session]

The Committee on Ways and Means, to whom was referred the bill (H. R. 8881) to carry out the recommendation of the President in connection with the late-claims agreement entered into pursuant to the settlement of war claims act of 1928, having considered the same, report it back to the House without amendment, with the recommendation that the bill do pass.

The Mixed Claims Commission, United States and Germany, was created by the agreement between the United States and Germany of August 10, 1922. This agreement provided that the claims of American nationals for losses for which Germany was responsible should be submitted to the Mixed Claims Commission and awards entered against Germany. By an exchange of notes at the time the agreement was entered into it was agreed to restrict the jurisdiction of the commission to claims filed with it within six months from the date of its first meeting. This period expired on April 9, 1923.

However, the claims of a large number of American nationals were not presented within the time specified. Accordingly, the settlement of war claims act contained a provision (subsection (j) of section 2) requesting the President to enter into an agreement with the German Government under which the Mixed Claims Commission would be given jurisdiction of claims filed with the Department of State before July 1, 1928, if the claims were of the same character as those of which the commission had jurisdiction under the original agreement.

In accordance with the above provision of the settlement of war claims act, the President, on December 31, 1928, entered into the agreement with the German Government extending the jurisdiction of the Mixed Claims Commission. (Treaty Series No. 766.)

Section 2 (e) of the act provides for the deduction of one-half of 1 per cent from the amount of each payment under the act in respect of an award of the Mixed Claims Commission, and provides that the amount so deducted shall be deposited in the Treasury as reimbursement for the expenses incurred by the United States in respect thereof. Upon entering into the late-claims agreement the President agreed to recommend to the Congress that the amount so deducted from the late-claims awards of the Mixed Claims Commission shall be made available to the German Government for defraying its expenses in connection with the adjudication of such claims.

The German Government was under no legal duty to extend the time within which claims could be filed and awards based thereon entered on behalf of American nationals. As a result of the late-claims agreement, American nationals have been given an opportunity to present their claims and to receive awards against Germany the aggregate amount of which has been estimated to be between \$8,000,000 and \$10,000,000.

The committee believes that the request of Germany is reasonable, that the amounts so deducted (one-half of 1 per cent of the payments on account of awards to American nationals) be made available to Germany for application toward defraying its administrative expenses in connection with the adjudication of the late claims, and that the undertaking of the President should be carried out.

The bill adds a new subdivision to section 2 of the settlement of war claims act, there being no similar provision in the existing law. Section 2 (e) of the settlement of war claims act, under the authority of which the deductions are now being made, reads as follows:

“(e) There shall be deducted from the amount of each payment, as reimbursement for the expenses incurred by the United States in respect thereof, an amount equal to one-half of 1 per cent thereof. The amount so deducted shall be deposited in the Treasury as miscellaneous receipts. In computing the amounts payable under subsection (e) of section 4 (establishing the priority of payments) the fact that such deduction is required to be made from the payment when computed or that such deduction has been made from prior payments, shall be disregarded.”

The messages of the President (H. Doc. 556, 70th Cong., and S. Doc. 255, 70th Cong.) are as follows:

CLAIMS OF AMERICAN CITIZENS AGAINST GERMANY

M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT FROM THE SECRETARY OF STATE IN RELATION TO THE AGREEMENT BETWEEN THE UNITED STATES AND GERMANY OF DECEMBER 31, 1928, FOR THE ADJUDICATION OF CLAIMS OF AMERICAN CITIZENS AGAINST GERMANY ARISING OUT OF THE WORLD WAR

FEBRUARY 5, 1929.—Referred to the Committee on Ways and Means, and ordered to be printed

To the Congress of the United States:

I transmit herewith a report from the Secretary of State in relation to the agreement between the United States and Germany of December 31, 1928, for the adjudication of claims of American citizens against Germany arising out of the World War, which were not notified to the commission in time to be considered under the agreement of August 10, 1922, between the United States and Germany for the adjudication of American claims.

Subsection (e) of section 2 of the "Settlement of war claims act of 1928" provides that there shall be deducted from the amount of each payment on awards of the Mixed Claims Commission, United States and Germany, as reimbursement for the expenses incurred by the United States in connection with the adjudication of the claims an amount "equal to one-half of 1 per centum thereof," which amount it is provided shall be deposited in the Treasury as miscellaneous receipts.

I recommend that the one-half of 1 per cent which the Secretary of the Treasury is thus authorized to deduct from awards shall, in so far as regards these late claims, be made available to the German Government for defraying such expenses as may be incurred by that Government in connection with the adjudication of such claims.

CALVIN COOLIDGE.

THE WHITE HOUSE,
February 5, 1929.

DEPARTMENT OF STATE,
Washington, February 5, 1929.

The PRESIDENT:

I have the honor to submit the following report and recommendation in regard to the agreement concluded between the United States and Germany on December 31, 1928, for the adjudication by the Mixed Claims Commission, United States and Germany, of the so-called late claims against Germany, as contemplated by the "Settlement of war claims act of 1928."

By the agreement of August 10, 1922, between the United States and Germany, it was provided that all claims of American citizens arising against Germany during the World War should be submitted to a Mixed Claims Commission. At the same time that the agreement was entered into, an understanding was reached by an exchange of notes that in order to receive the consideration of the commission all claims should be presented to it within six months after the first meeting of the commission. That meeting occurred on October 9, 1922, and the time within which claims could be presented to the commission therefore expired on April 9, 1923. It subsequently developed that a large number of claimants, for one reason or another, had failed to present their claims in time to be notified to the commission within the time agreed upon and the matter of concluding a further agreement with Germany whereby the jurisdiction of the commission would be extended so as to permit late claimants to have their claims considered by the commission received attention by the Congress, as a result of which the Congress in the act approved March 10, 1928, known as the "Settlement of war claims act of 1928," section 2, subsection (j), requested you—

To enter into an agreement with the German Government by which the Mixed Claims Commission will be given jurisdiction of and authorized to decide claims of the same character as those of which the commission now has jurisdiction, notice of which is filed with the Department of State before July 1, 1928. If such agreement is entered into before January 1, 1929, awards in respect of such claims shall be certified under subsection (a) and shall be in all other respects subject to the provisions of this section.

Under your direction and pursuant to the request contained in the above-quoted provision, I addressed a note to the German ambassador at this capital on April 3, 1928, inquiring whether the German Government would be willing to enter into an agreement with this Government extending the jurisdiction of the Mixed Claims Commission, United States and Germany, to cover claims which had been barred because they had not been submitted within the time specified.

On May 22, 1928, the German ambassador replied that the German Government would not be able to reach a decision in the matter until it had been advised regarding the number, character, and importance of the claims which might ultimately be submitted to the commission. Steps were immediately taken to make a survey of the late claims and to furnish the German Government with the desired information. A list of the claims as disclosed by the department's survey was furnished the German Embassy on August 17, 1928, and arrangements were made to have the information compiled by the department rechecked by the German agent before the Mixed Claims Commission so that the German Government might have the benefit

of the views of its own representative as to the nature, character, and approximate amount of the claims involved.

In a note of November 26, 1928, the German ambassador advised the department that the checking of the list by the German agent had revealed the information desired, and that the German Government was willing to do its part toward bringing about an agreement of the character contemplated by the "Settlement of war claims act of 1928." The ambassador stated, however, that inasmuch as the adjudication of the late claims would necessitate the continuance of the expensive machinery of the Mixed Claims Commission for some months longer than otherwise would be necessary, his Government considered that the claimants for whom a remedy would thus be afforded should participate to an appropriate extent in the extra expenses caused the German Government by the prolongation of the life of the commission. The German ambassador suggested that this might be accomplished by the collection from the claimants of fees in connection with the filing, preparing and adjudicating of the claims.

I did not consider that it would be advisable to require the deposit of a fee as a condition precedent to the adjudication of a claim, and after several exchanges of views between the department and the ambassador I finally, on December 31, 1928, addressed a note to the ambassador setting forth what I considered would be appropriate terms of an agreement. These terms were stated specifically under paragraphs numbered 1 to 5 of the note which read as follows:

(1) That all the late claims of American nationals against Germany, notice of which was filed with the Department of State prior to July 1, 1928, of the character of which the Mixed Claims Commission, United States and Germany, now has jurisdiction under the claims agreement concluded between the United States and Germany on August 10, 1922, shall be presented to the commission with the supporting evidence within six calendar months from the 1st day of February, 1929.

(2) That the answer of the German Government to each claim presented shall, together with supporting evidence, be filed with the commission within six calendar months from the date on which the claim is presented to the commission, as provided for in paragraph 1.

(3) That the subsequent progress of the claims before the commission, including the submission of additional evidence and the filing of briefs, shall be governed by rules prescribed by the commission, it being understood that both Governments are equally desirous of expediting the completion of the work of the commission.

(4) That the preparation and adjudication of the claims shall be governed by the same legal principles as have so far been applied in the proceedings before the Mixed Claims Commission.

(5) That the President will recommend to the Congress that the one-half of 1 per cent which the Secretary of the Treasury is authorized by the "Settlement of war claims act of 1928" to deduct from awards made by the Mixed Claims Commission before payment thereof to the claimants for application to the expenses of the United States incident to the adjudication of the claims, shall, in so far as regards the late claims, be made available to the German Government for defraying such expenses as may be incurred by that Government in connection with the adjudication of such late claims.

It will be seen from paragraph (5) that, with respect to the matter of the extra expenses which would be occasioned the German Government by extending the jurisdiction of the commission to cover the late claims, it was stated that you would be willing to recommend to the Congress that the one-half of 1 per cent which the Secretary of the Treasury is authorized by the "Settlement of war claims act

of 1928" to deduct from awards made by the Mixed Claims Commission before payment thereof to the claimants for application to the expenses of the United States incident to the adjudication of the claims shall, in so far as regards the late claims, be made available to the German Government for defraying such expenses as may be incurred by that Government in connection with the adjudication of such late claims.

The German ambassador readily concurred in the suggested agreement by a note addressed to me under date of December 31, 1928.

I feel that it would not be out of place to state that in all the conferences regarding this matter the representatives of the German Government showed an attitude of fairness and a desire to cooperate with this Government in bringing about an adjudication of these late claims.

I would strongly recommend that Congress be requested to enact suitable legislation by which one-half of 1 per cent of the awards in these late claims may be made available to the German Government for defraying the German expenses which may be incurred in connection with the adjudication of late claims as outlined in paragraph 5 of the department's note of December 31, 1928, to the German ambassador.

A copy of the agreement of December 31, 1928, between the United States and Germany, is transmitted herewith.

Respectfully,

FRANK B. KELLOGG.

The PRESIDENT,
The White House.

AGREEMENT EFFECTED BY EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND GERMANY—EXTENSION OF THE JURISDICTION OF THE MIXED CLAIMS COMMISSION, UNITED STATES AND GERMANY, SIGNED DECEMBER 31, 1928

[The Secretary of State to the German Ambassador]

DEPARTMENT OF STATE,
Washington, December 31, 1928.

EXCELLENCY:

I have the honor to refer to your note of November 26, 1928, regarding the concluding of an agreement between the United States and Germany for the extension of the jurisdiction of the Mixed Claims Commission, United States and Germany, to include claims of the same character as those of which the commission now has jurisdiction under the agreement between the two Governments signed August 10, 1922, which were not filed in time to be submitted to the commission under the terms of the notes exchanged at the time of signing that agreement but which were filed with the Department of State prior to July 1, 1928.

You state that your Government is prepared to do its share to bring about a settlement of these so-called late claims, but that it considers that the preparation and adjudication of the claims should be governed by the same legal principles as have so far been applied in the proceedings of the Mixed Claims Commission, and that means should be found by which a prompt and speedy preparation and adjudication of the claims involved may be fully guaranteed. Your Government suggests that as an appropriate means to this end, fixed and final terms should be agreed upon for the filing of claims and defense material, including the necessary evidence, and that a requirement should be made that all claims to be adjudicated by the commission should be presented for judgment within a fixed period of time. You add that, owing to the fact that the adjudication of

the late claims will necessitate the continuance of the expensive machinery of the Mixed Claims Commission for some months, which would not otherwise be necessary or which would not have been necessary to the same extent if the claims had been presented within the time prescribed by the agreement of August 10, 1922, your Government considers that the claimants for whom a remedy will thus be afforded should participate to an appropriate extent in the expenses which will result from the prolongation of the life of the commission. This, you suggest, might be accomplished by the collection of a fee for the final filing of each claim, thus eliminating to the greatest possible extent claims which are unfounded or which are presented in unjustified amounts, and an additional fee for preparing and adjudicating the claim.

I desire to express my appreciation of the willingness of your Government to cooperate with my Government in an effort to complete the adjudication of the claims defined above. My Government, equally with your Government, is anxious that the work of the Mixed Claims Commission should be completed at the earliest date practicable and will use its best endeavors to that end. With respect to your suggestion that the claimants who will be benefited by an extension of time for the presentation of so-called late claims should share to an appropriate extent the additional expense incident to the prolongation of the labors of the Mixed Claims Commission, my Government considers that it would not be feasible to require the deposit of a fee as a condition precedent to the adjudication of the claims. In an effort, however, to meet the views of your Government that it should be relieved of this additional expense, the President would be willing to recommend to the Congress that the one-half of one per cent which the Secretary of the Treasury is authorized by the "Settlement of war claims act of 1928" to deduct from awards made by the Mixed Claims Commission before payment thereof to the claimants as reimbursement for the expenses of the United States incident to the adjudication of the claims, shall, in so far as regards the late claims, be made available to your Government for defraying such expenses as may be incurred by your Government in connection with the adjudication of such late claims. I, therefore, suggest the following as the terms of the agreement between the two Governments:

(1) That all the late claims of American nationals against Germany, notice of which was filed with the Department of State prior to July 1, 1928, of the character of which the Mixed Claims Commission, United States and Germany, now has jurisdiction under the claims agreement concluded between the United States and Germany on August 10, 1922, shall be presented to the commission with the supporting evidence within six calendar months from the first day of February, 1929.

(2) That the answer of the German Government to each claim presented shall, together with supporting evidence, be filed with the commission within six calendar months from the date on which the claim is presented to the commission, as provided for in paragraph 1.

(3) That the subsequent progress of the claims before the commission, including the submission of additional evidence and the filing of briefs, shall be governed by rules prescribed by the commission, it being understood that both Governments are equally desirous of expediting the completion of the work of the commission.

(4) That the preparation and adjudication of the claims shall be governed by the same legal principles as have so far been applied in the proceedings before the Mixed Claims Commission.

(5) That the President will recommend to the Congress that the one-half of 1 per cent which the Secretary of the Treasury is authorized by the "Settlement of war claims act of 1928" to deduct from awards made by the Mixed Claims Commission before payment thereof to the claimants for application to the expenses of the United States incident to the adjudication of the claims, shall, in so far as regards the late claims, be made available to the German Government for defraying such expenses as may be incurred by that Government in connection with the adjudication of such late claims.

Upon the receipt from you of a note expressing the concurrence of your Government in the conditions outlined in paragraphs 1 to 5, inclusive, the agreement contemplated by paragraph (j) of section 2 of the "Settlement of war claims act of 1928" will be regarded as consummated.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANK B. KELLOGG.

His Excellency

Herr FRIEDRICH WILHELM VON PRITZWITZ UND GAFFRON,

Ambassador of Germany.

[The German Ambassador to the Secretary of State]

DEUTSCHE BOTSCHAFT,
Washington, D. C., den 31. Dezember 1928.

HERR STAATSSSEKRETÄR:

Ich beehre mich den Empfang der Note Eurer Exzellenz vom 31. Dezember 1928 bezüglich der Regelung der Late Claims vor der Deutsch-Amerikanischen Gemischten Kommission ergebenst zu bestätigen.

In Erwiderung darauf beehre ich mich die Zustimmung meiner Regierung zu der Regelung der Angelegenheit auszusprechen, wie sie in den Paragraphen 1 bis 5 der Note Eurer Exzellenz vorgeschlagen ist und Ihnen mitzuteilen, dass meine Regierung das im Paragraphen J des Abschnittes 2 der "Settlement of War Claims Act of 1928" in Aussicht genommene Abkommen als in diesem Sinne getroffen ansieht.

Genehmigen Sie, Herr Staatssekretär, die erneute Versicherung meiner ausgezeichnetsten Hochachtung.

F. W. v. PRITTWITZ.

Seiner Exzellenz

Dem Staatssekretär der Vereinigten Staaten,
Herr FRANK B. KELLOGG,
Washington, D. C.

[The German Ambassador to the Secretary of State]

[Translation]

GERMAN EMBASSY,
Washington, D. C., December 31, 1928.

MR. SECRETARY OF STATE:

I have the honor to acknowledge receipt of your excellency's note of December 31, 1928, with reference to the adjudication of the late claims before the Mixed Claims Commission, United States and Germany.

In reply thereto I beg to express to your excellency the concurrence of my Government in the proposals for adjusting this matter, as outlined in paragraphs 1 to 5 inclusive of your excellency's note, and to inform you that my Government considers the agreement contemplated by subsection (j) of Section 2 of the "Settlement of war claims act of 1928" as thus consummated.

Accept, excellency, the renewed assurance of my highest consideration.

F. W. v. PRITTWITZ.

His Excellency

The Secretary of State of the United States,
Mr. FRANK B. KELLOGG,
Washington, D. C.

USE OF FUNDS COVERED INTO THE TREASURY UNDER
THE SETTLEMENT OF WAR CLAIMS ACT OF 1928

COMMUNICATION

FROM THE

PRESIDENT OF THE UNITED STATES

TRANSMITTING

DRAFT OF PROPOSED LEGISLATION AFFECTING THE USE OF
FUNDS REQUIRED TO BE COVERED INTO THE TREASURY UNDER
THE SETTLEMENT OF WAR CLAIMS ACT OF 1928

FEBRUARY 25 (calendar day, FEBRUARY 26), 1929.—Read; referred to the Com-
mittee on Appropriations and ordered to be printed

THE WHITE HOUSE,
Washington, February 26, 1929.

The PRESIDENT OF THE SENATE.

SIR: I have the honor to transmit herewith for the consideration of Congress a draft of proposed legislation affecting the use of funds required to be covered into the Treasury as miscellaneous receipts under the settlement of war claims act of 1928.

The details of the proposed legislation, the necessity therefor, and the reason for its submission at this time are set forth in the letter of the Director of the Bureau of the Budget transmitted herewith, with whose comments and observations thereon I concur.

Respectfully,

CALVIN COOLIDGE.

BUREAU OF THE BUDGET,
Washington, February 26, 1929.

The PRESIDENT.

SIR: I have the honor to submit herewith for your consideration a draft of proposed legislation affecting the use of funds required to

be covered into the Treasury as miscellaneous receipts under the settlement of war claims act of 1928:

The total amounts authorized to be deducted under section 2 (e) of the settlement of war claims act of 1928 from payments on account of the awards of the Mixed Claims Commission, United States and Germany, rendered under the agreement between the United States and Germany of December 31, 1928 (entered into under the authority of section 2 (j) of such act) are hereby made available for reimbursing Germany on account of the expenses incurred in connection with the adjudication by the commission of claims under the said agreement, and the Secretary of the Treasury is authorized and directed to pay the total amounts so deducted to such representative of the German Government as the Secretary of State may designate.

Pursuant to authority contained in section 2 (j) of the settlement of war claims act of 1928, the United States entered into an agreement with Germany on December 31, 1928, for the extension of the jurisdiction of the Mixed Claims Commission, United States and Germany, to include claims of the same character as those of which the commission had jurisdiction under the agreement between the two Governments signed August 10, 1922, which were not filed in time to be submitted to the commission under the terms of that agreement but which were filed with the Department of State prior to July 1, 1928.

Section 2 (e) of the act provides that there shall be deducted from payments of awards of the Mixed Claims Commission as reimbursement for the expenses incurred by the United States in connection with the adjudication of the claims an amount equal to one-half of 1 per cent thereof, which it is provided shall be deposited in the Treasury as miscellaneous receipts.

It is proposed that the amount of one-half of 1 per cent which is authorized to be deducted shall, so far as the claims filed under the agreement between the United States and Germany of December 31, 1928, are concerned, be made available to the German Government for defraying such expenses as may be incurred by that Government in connection with the adjudication of such claims.

It is estimated that this deduction of one-half of 1 per cent will amount to approximately \$50,000.

The proposed legislation is necessary to meet a contingency which has arisen since the transmission of the Budget for the fiscal year 1930, and its approval is recommended.

Very respectfully,

H. M. LORD,
Director of the Bureau of the Budget.

PROPOSED LEGISLATION

The total amounts authorized to be deducted under section 2 (e) of the settlement of war claims act of 1928 from payments on account of the awards of the Mixed Claims Commission, United States and Germany, rendered under the agreement between the United States and Germany of December 31, 1928 (entered into under the authority of section 2 (j) of such act), are hereby made available for reimbursing Germany on account of the expenses incurred in connection with the adjudication by the commission of claims under the said agreement, and the Secretary of the Treasury is authorized and directed to pay the total amounts so deducted to such representative of the German Government as the Secretary of State may designate.