FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

CHARLES D. SIEGEL
1007 Cedar Drive North
New Hyde Park, New York

Under the International Claims Settlement Act of 1949, as amended

Claim No. SOV- 40,017

Decision No. SOV-230-B

FINAL DECISION

The Commission issued its Proposed Decision on this claim on December 18, 1957 , a certified copy of which was duly served upon the claimant. No objections or request for a hearing having been filed within twenty days after such service and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim, and it is further

ORDERED that the award granted pursuant thereto be certified to the Secretary of the Treasury.

Washington 25, D. C.

FEB 19 1958

Whitney Gillilland

Earl Rice

Henry L. Clay

COMMISSIONERS

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GPO 925300

FOREIGN CLAIMS SETTLEMENT COMMISSION
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CHARLES D. SIEGEL
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Claim No. SOV-40,017

Decision No. SOV-230-B

Under the International Claims Settlement Act of 1949, as amended

GPO 16—72126-1

PROPOSED DECISION

This claim for $20,000 under the provisions of Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended, by Charles D. Siegel, a national of the United States since his birth on July 22, 1887 in Hoboken, New Jersey, is based upon the loss sustained by the claimant as the owner of twenty (20) 4% State Income Bonds ("Rentes") issued by the Imperial Russian Government in 1902.

The Commission finds it established that claimant is the owner of twenty (20) such bonds, each in the denomination of 1,000 rubles, numbered: Series 17, 3062; Series 24, 3811 and 3813; Series 79, 2322, Series 102, 3356; Series 106, 3214; Series 113, 2380; Series 114, 3165, 4380, 4778, 4779, 4780, 4781, 4782, 4783 and 4784; Series 165, 1715, 4724, and 4725; and Series 177, 3006; that he acquired such bonds in 1940 by inheritance from Abraham B. Siegel, also known as Abraham B. Siegler, a national of the United States; and that on February 10, 1918, the bonds were formally repudiated by the Soviet Government.

The identity and nationality of the owners of the bonds from February 10, 1918, until the date claimant's father acquired them are unknown. The Commission has ascertained that bonds of the type owned by claimant were traded on the market in the United States in large

S-30

quantities prior to February 10, 1918. In the absence of any evidence to the contrary, the Commission concludes that the bonds upon which this claim is based have been owned continuously from February 10, 1918, by nationals of the United States.

Accordingly, the Commission finds that the claimant has a valid claim for compensation under Section 305(a)(2) of the Act.

Section 307 of the Act provides that any award made on a claim of a national of the United States other than the national of the United States to whom the claim originally accrued shall not exceed the amount of the actual consideration last paid therefor either prior to January 1, 1953, or between that date and the filing of the claim, whichever is less.

Claimant has no record of the date of purchase nor of the actual consideration paid for the securities. However, all the circumstances indicate that the securities were purchased by claimant's father after February 10, 1918, between the years 1918 and 1940. Statistics available to the Commission disclose that the average market price of such securities for all the years between 1918 and 1940 was $11.62 for 1,000 rubles. In the absence of evidence to establish the actual consideration paid, the Commission concludes that claimant is entitled to an award in the amount of the average cost of such securities during the aforesaid years.

A W A R D

On the above evidence and grounds, this claim is allowed and an award is hereby made to CHARLES D. SIEGEL, claimant herein, in the amount of two hundred thirty-two dollars and forty cents ($232.40).

Payment of the award herein, in whole or in part, shall not be construed to have divested claimant herein, or the Government of the United States on his behalf, of any rights against the Government of the Soviet Union for the unpaid balance, if any, of the claim.

Dated at Washington, D. C.

DEC 18 1957

FOR THE COMMISSION:

Joseph Stein, Director
Soviet Claims Division

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
Washington 25, D. C.

In the Matter of the Claim of CHARLES D. SIEGEL 1007 Cedar Drive North New Hyde Park, New York	Claim No. SOV-40,017
Under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended	Order No. SOV-230

O R D E R

The Commission, on December 19, 1956, issued its Proposed Decision denying compensation to claimant herein for a loss alleged to have been sustained as the owner of certain bonds issued by a predecessor of the Soviet Government, on the grounds that claims based on bonds payable in currency other than that of the United States are not within the purview of Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended. After the issuance of the Proposed Decision herein, the Commission issued Proposed Decisions denying other similar claims for the same reason. Many of the claimants who received Proposed Decisions denying their claims based on bonds payable in currency other than United States dollars filed objections to such Proposed Decision and a consolidated hearing was held at the Commission on March 14, 1957. At this hearing many interested parties appeared and presented oral argument in support of such objections.

On the basis of all the evidence and data now of record, and after giving full consideration to the objections filed and the arguments presented at the hearing, the Commission concludes that claims based on securities payable in currency other than United States dollars should not be excluded from the relief granted by Section 305(a)(2) of the Act.

Section 305(a)(2) of the Act is remedial legislation and was enacted by Congress for the purpose of compensating nationals of the United States for losses sustained as a result of the acts of the revolutionary government in Russia during the years 1917 to 1921. Since it is remedial legislation it should be liberally construed. The evidence of record shows that a number of United States nationals acquired securities payable in currency other than United States dollars through American banks and brokerage houses during the years prior to the repudiation of the securities by the Soviet Government in 1918. Such transactions were promoted and the investments were encouraged at that time by banks and brokerage houses in the United States in order to support the war effort of the Imperial Russian Government and of its successor, the Provisional Government of Russia, which were struggling against external and internal enemies who were at the same time enemies of the United States. When the Soviet Government on February 10, 1918, repudiated all obligations of its predecessors, no distinction was made between obligations payable in rubles or in other currencies. Nationals of the United States holding securities payable in rubles sustained a loss just as those who held dollar obligations.

Claimants holding bonds payable in currency other than United States dollars have, over the years since the revolution in Russia, presented their claims to agencies of the United States Government and, apparently felt that they were included in the estimated figures mentioned during the Congressional hearings on the Act even though not mentioned specifically.

While no doubt some of the claims filed with the Commission will be denied for other reasons, the Commission is now of the opinion that claims based on securities issued by predecessors of the Soviet Government are within the purview of the Act, regardless of the currency in which they are payable. In view of the foregoing, it is

ORDERED that the Proposed Decision denying this claim be, and is hereby, vacated.

Other elements bearing upon the validity of this claim have not been considered.

Whitney Gillilland
Pearl Carter Pace

COMMISSIONERS

Commissioner Henry J. Clay dissents

Dated at Washington, D. C.

MAY 9 1957

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

In the Matter of the Claim of	
CHARLES D. SIEGEL 1007 Cedar Drive North New Hyde Park, New York	Claim No. SOV-40,017 Decision No. SOV-230
Under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended	

In view of the Commission's decision to reverse its proposed decision, heretofore issued under date of December 19, 1956, it now seems advisable to re-examine, in detail, the factual and legal basis of this proposed decision over and beyond that previously suggested. Mindful of the fact that in the course of administering claims of this particular type, we are charting new courses into heretofore unknown and untested areas of International Law, I feel it my duty and responsibility to express the reasons why I feel persuaded to differ from the conclusions reached by my colleagues.

The facts in this case are not in dispute. The Commission issued its proposed decision denying this claimant compensation for loss alleged to have been sustained by him as owner of certain bonds issued by a predecessor of the Soviet Government, on the grounds that the claims based on certain bonds, payable in currency other than that of the United States, were not within the purview of Section 305(a)(2) of the International Claims Act of 1949, as amended. In the said proposed decision, the Commission deemed it unnecessary to determine the question as to whether or not a claim based upon a repudiated bond payable in currency other than the United States dollar

is one that would ordinarily be espoused by the United States Government, and thereby "give rise to a claim under International Law". In view of the reversal of opinion in this case, it now seems appropriate to examine this significant question.

In the general course of espousal of claims of its nationals, it has been a recognized principle of law as well as policy that the Government of the United States will not intervene in cases involving breaches of contract between a foreign state, on behalf of a national of the United States, in the absence of a showing of denial of justice. Bishop, International Law, 514-515, Third Edition (1954). This position is predicated on the premise that this Government is not a collection agency, and cannot assume the role of endeavoring to enforce contractual undertakings freely entered into by its nationals with foreign states.

It has long been the practice of the Department of State of our Federal Government to confine its official action in relation to the espousal of claims of United States nationals to the recovery of indemnity from foreign governments for tortious acts committed under their authority against the persons and property of United States citizens. In the case of violation of a contract right, the accepted rule has been not to interfere in such relationship, unless very peculiar circumstances should arise. The particular situation created by default on foreign bonds, whether partial or complete, has been given constant study by the Department, and it has been the consistent policy of this Government to consider such matters primarily ones for direct negotiation and settlement between the foreign debtors and the American bondholders or their representatives. American citizens who purchase such obligations certainly do so upon their own responsibility and at their own risk.

To facilitate means or provide a vehicle whereby United States nationals might have some recourse to protect their right, the Government, in the Fall of 1933, encouraged the bringing into existence the Foreign Bondholders' Protective Council. The purpose of the Council was to provide a disinterested and non-profit organization which would undertake to protect the interests of numerous and scattered holders of defaulted foreign securities. This Council, which continues to function, is entirely independent of the Government, and is without any responsibility to the Government of the United States. See Clark, "Collecting of Defaulted Foreign Dollar Bonds", 32 Am. J. Int'l L. 439 (1938), 34 Am. J. Int'l L. 119 (1940). Further authority for the general premise that bond obligations are not a proper subject of espousal is found in the Harvard Research in International Law, "Responsibility of States", Article 8(b), which states that "a state is not responsible if an injury to an alien results from the nonperformance of a contractual obligation which its political subdivision owes to an alien, apart from responsibility because of denial of justice". See 23 Am. J. Int'l L., Special Supplement 168 (1929).

In addition to the foregoing, it may be stated, as a general principle of International Law, claims relating to debts, evidences of debts, breach of contract, matters relating to stockholder interests, or other equity interests, are not matters which are properly espousable, under International Law, by one country on behalf of its nationals against another country.

There is no question concerning the fact that the Soviet Government repudiated all bond obligations, whether they were guaranteed bonds or bonds of a political subdivision, by its Decree of February 10, 1918. This act of repudiation constituted a refusal to admit the binding character of the obligation. Repudiations of this type certainly are not unusual when a new

government undertakes to repudiate prior obligations contracted by a previous de jure or de facto government. The basis or purported justification of such repudiation, of course, is that the prior government had no authority to bind the nation. In this particular instance, the Soviet Government repudiated the Czarist Government debt to the extent of some $20,000,000,000.

Prior to November 16, 1933, the United States had accorded recognition to the provisional government of March 16, 1917. However, on the 1933 date, the present Soviet government was recognized. Thereupon, the substantive right to certain monies of Russian entities, who had deposits in the United States, became vested in the Soviet Government as the successor to the entity under that Government's decree nationalizing the entity. U. S. v. Belmont 301 U.S. 324 (1937). The right to certain seized assets therefore became vested in the newly recognized Soviet Government, as successor to certain corporate entities under the Soviet Government's decrees nationalizing such corporations. U. S. v. Pink 315 U.S. 203, 234 (1942). Therefore, it is inescapable to conclude that recognition of the Soviet Government by the United States Government validated the acts of the Soviet Government with respect to its decree annulling state loans, which had the effect of repudiating obligations to the United States and its nationals incurred by its predecessor governments. It can therefore be concluded that the act of repudiation by the Soviet Government was valid.

When the Soviet Government assigned certain claims to the Government of the United States, as a consequence of and in consideration for recognition by the United States of the Soviet Government, pursuant to the Litvinoff Assignment dated November 16, 1933, there was created in the United States Treasury a fund which became available to United States citizens

for damages that were occasioned to property located in the Soviet Union. It was solely within the province of the Congress to determine the nature and extent and the means and manner by which this fund should be distributed amongst deserving United States Nationals. It had full authority to fix the classes or types of claims which would be settled out of this fund.

When the amount of the particular Soviet fund became ascertained the Congress passed into legislation Public Law 285, 84th Congress, which clearly defined the area within which these claimants were to qualify for relief under the Act. In view of the limited amount of the fund, and in light of the huge aggregate value that these claims would allege, the Congress set up certain standards within which these claims should fall in order to be entitled to compensation. In so doing, the Congress fully recognized that the amount of the claims to be filed, even under the classes of claims included under this program, would be greatly in excess of the funds that were available for distribution. Aside from the general categories of claims that would properly be considered under recognized principles of International Law, the Congress, however, did set up additional special areas for consideration. One such special category was found in Section 305(a) and 305(a)(1). The manner of disposing of this special category was provided for in Section 305(c). Similarly the Congress set up a miscellaneous group of claims under Section 305(a)(2).

While Section 305(a)(2) of the Act was enacted without benefit of any specific recognition or enumeration of the type of claims that would be accorded nationals of the United States against the Soviet Government, the generality relating to the area of consideration was based on the fact that the Litvinoff Assignment was merely preparatory to a final settlement of

claims of United States nationals. In the absence of any restricting language, it is clear that the claims to be considered were such as would result from failure of the Soviet Government to meet the terms of any international agreement. Section 305(a)(2), therefore, was intended to provide for the distribution of funds assigned to the United States Government by the Soviet Government pursuant to the Assignment which was to be considered as only part settlement of claims of nationals of the United against the Soviet Government. It is pertinent then that the claims filed under Section 305(a)(2) be determined in accordance with "applicable substantive law, including International Law".

Substantive law is that part of the law which the courts are established to administer, as opposed to the rules according to which the substantive law itself is administered. Substantive law is positive law which creates, defines and regulates rights while ~~adjective~~ adjective or remedial law prescribes the methods of enforcing rights or obtaining redress for their invasion. Occidental Life Ins. Co. of Calif. v. Kielhorn, 98 F. Supp. 288, 292-3 (W.D. Mich. 1951). The test is whether a rule is sufficient to regulate procedure, whether it provides a method of aiding and protecting as distinguished from creating a right. Sibbach v. Wilson & Co., Inc., 312 U.S. 1, 14, 85 L. Ed. 479, 61 S. Ct. 422, 426 (1941). The broader term "municipal law", which encompasses substantive and adjective law, is employed when the binding law which pertains to the internal government of an individual state or nation is distinguished from international law.

Public international law is that body of rules which regulates the intercourse of nations in peace and in war while that body of learning known as the conflict of laws or private international law is applied to the adjustment of private interests and relates to cases more or less subject to the laws of

other countries. Moore, "Fifty Years of International Law", 50 Harv. L. Rev. 395 (1937). Garner v. Teamsters, Chauffeurs & Helpers Local Union No. 776, 346 U. S. 485, 495, 98 L. Ed. 228, 74 S. Ct. 161, 168 (1953). The "international law" contemplated by Section 305(a)(2) of the Act is, of course, public international law.

That international law is part of our municipal law and that our courts take judicial notice of it as such is undoubted. The Constitution of the United States expressly recognized international law, and as early as 1796, the Supreme Court said that "When the United States declared their independence, they were bound to receive the law of nations, in its modern state of purity and refinement". Ware v. Hyton, 3 U.S. (3 Dall.) 199, 281 (1796). Our highest Court has affirmed that principle many times. Skiriotes v. State of Florida, 313 U.S. 69, 72-3, 85 L. Ed. 1193, 61 S. Ct. 924, 927 (1941).

International law is superior to municipal law in the administration of justice by international tribunals. The situation appears to be otherwise, however, with respect to national courts or other tribunals, such as the Foreign Claims Settlement Commission, which are creatures of this governmental system.

In any consideration of legislation delegated by the Congress to be administered by this Commission, a domestic claims tribunal, the relationship between international law and the Congress, from which emanates that portion of municipal law which is relevant here, is pertinent.

It is also significant that while international law is a part of our municipal law, it is such "for the application of its own principles, and these are concerned with international rights and duties and not with domestic rights and duties". Skiriotes v. State of Florida, 313 U/S. 69, 73, 85 L. Ed. 1193, 61 S. Ct. 924, 927 (1941). While it may be argued, although in

my opinion, there is some question as to the validity of such a contention, repudiation of an obligation by the Soviet Government may give rise to an international wrong with its correlative international right residing in the United States national bondholder, it certainly does not follow that such right must, perforce, be recognized by a domestic claims commission in its administratinn of a Congressional enactment where the legislative history is replete with statements that lead to a diametrically opposite conclusion.

Consequently, it is my conclusion that international law may not be applied when it is opposed and is contrary, as will be shown hereinafter with respect to ruble bondholders, to the intent of the Congress in the enactment of a statutory provision for the distribution of this limited fund of approximately $9.1 million. International law must supplement and be consistent with the intent of the Congress. It cannot control a ruling by the Commission which would be contrary to such intent.

Parenthetically, in light of the foregoing, it is submitted that the phrase "including international law" is surplusage in the statute. As part of our municipal law, international law principles must be utilized, where applicable, in the administration of the Act.

What, then, with respect to bond claims, was contemplated by the Congress in the enactment of section 305(a)(2) of the Act? It is axiomatic that the primary object and purpose of all interpretations or construction of the words of a statute is to accomplish the purposes of legislative intent. Vermilya-Brown Co., Inc. v. Connell, 335 U.S. 377, 93 L. Ed. 76, 69 S. Ct. 140 (1948).

When the legislative history of Public Law 285 is examined, the intent of the Congress appears to be outlined in the testimony elicited in the course of a discussion of the provisions of Section 305(a)(2) during the House hearings on H. R. 6382, on March 22, 1955, and which is repeated as follows:

> "The remainder of the fund would go to the payment of awards on some $75 million of repudiated Imperial Russian Government bonds, under a category (305(a)(2)) involving about $350 million, more or less, for the nationalization or confiscation claims, which would be broken down into the following categories:
>
> Approximately $115 million for real and personal property, $210 million involving bank deposits, debts of Russian Government or other bonds, approximately $2 million, and the miscellaneous group of approximately $9 million. See Hearings Before the Committee on Foreign Affairs, House of Representatives, 84th Congress, 1st Session, at 37 (1955)."

The "$75 million of repudiated Imperial Russian Government bonds", of course, refer to the two issues of Imperial Russian Government 3 year 6-1/2% credit gold certificates due June 18, 1919, face value $50 million, fully issued, and the Imperial Russian Government external loan 5 year treasury gold 5-1/2's due December 1, 1921, face value $25 million, fully issued. These securities, which were sold in 1916 directly to American investors through J. P. Morgan & Company and the National City Bank of New York, have been listed on the American Stock Exchange since June 27, 1921, and were dealt in on the Curb Market prior to that date. The se securities are expressed in dollar obligations.

The statement relative to "debts of Russian Government or other bonds, approximately $2 million," evidently was a reference to the debts of the Russian Government to private concerns in the amount of $2.6 million. The mention of "other bonds" appears to have been an inadvertence. In any

event, it is manifest that ruble bond issues could not have been contemplated within the $2 million figure inasmuch as an estimate of such issues by the Department of State based on claims filed exceeds that figure by more than ten times that amount.

It is also of interest that a statement by one of the principal dealers in these securities criticising the draft bill, as well as the American Stock Exchange letter of April 14, 1955, made reference only to the $75 million dollar bond issues. See Hearings Before the Committee on Foreign Affairs, House of Representatives, 84th Congress, First Session, at 210 and 212 (1955).

The second specific reference to this subject is found in a Committee on Foreign Affairs memorandum to the Honorable John M. Vorys which was made a part of the Senate record at the suggestion of Congressman Bentley. In the discussion of the claims against Russia, it is stated, "In addition, there would have to be added claims in an unknown number based upon repudiated Imperial Russian Government bonds aggregating about $75 million." There was no mention of ruble bonds.

There were other references to Russian bonds, which, while the $75 million bond issues were not mentioned, were discussed in connection with trading these dollar bond issues on the American Stock Exchange.

The record of debate on the bill in the Senate and House is barren insofar as the instant question is concerned. The legislative history of the Joint Resolution to provide for the adjudication of claims by a commissioner of claims of American nationals against the Soviet Government is also void of any indication of intent concerning the validity of claims of ruble bondholders.

From the foregoing legislative history, which was before the Congress when H. R. 6382 was enacted into law, it seems clear that the manifest intent of the Congress was to limit compensation under Section 305(a)(2) of the Act to nationals of the United States who are dollar bondholders.

This conclusion is reinforced when Section 303(3) of the Act is read in connection with the pertinent articles of the treaties of peace with Hungary, Rumania and Bulgaria. Section 303(3) refers to "obligations expressed in currency of the United States. . ." The treaties of peace in articles 31, 29, and 27, respectively, do not so limit the obligations.

It should also be observed that prior to the stabilization of the ruble in 1924, there were used as part of the circulating media in the Soviet Union the so called "substitutes" for money, which consisted of Liberty Loan bonds in denominations not over 100 rubles, certain short term treasury notes and coupons of government interest bearing securities. While this monetary experiment was quite unorthodox when compared with customary national and international practice, yet it is a fact which should be weighed in a consideration of the instant issue. To the extent that ruble bonds were used as substitutes for money which ultimately became valueless, the conclusion herein that ruble bonds are not within the contemplation of Section 305(a)(2) is supported, since claims arising out of devaluation of the ruble are not within the purview of Section 305(a)(2) of the Act.

Accordingly, I would find that claims based on the loss sustained by American nationals as holders of Russian ruble bonds or bonds of Russian corporations guaranteed by the Soviet Government, expressed in currency other than that of the United States, were not intended to be included in the classification of claims to be adjudicated and, therefore, are not within the purview of Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended.

Henry J. Clay

Henry J. Clay, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
Washington 25, D.C.

In the Matter of the Claim of Siegel, Charles D.	CLAIM No. SOV-40,017

GENERAL COUNSEL'S STATEMENT

No information of sufficient merit to cast doubt on the accuracy of the Proposed Decision on this claim has been brought to the attention of the General Counsel during the period of general notice provided by posting.

Andrew T. McGuire
General Counsel

Dated: JAN 28 1957

GPO 915281

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

In the Matter of the Claim of	
CHARLES D. SIEGEL 1007 Cedar Drive North New Hyde Park, New York	Claim No. SOV-40,017 Decision No. SOV-230
Under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended	

PROPOSED DECISION

Commissioners Pace and Clay:

This is a claim asserted in the amount of $20,000 arising out of loss alleged to have been sustained by the claimant as owner of twenty bonds of the face amount of 1000 rubles each which were issued in 1902 by the Imperial Russian Government. All bonds issued by the predecessors of the Soviet Government, and guarantees of bonds of Russian Corporations, by such predecessor governments, were formally repudiated by the Soviet Government on February 10, 1918.

We deem it unnecessary to determine here whether a claim based upon a repudiated bond payable in currency other than in United States dollars is one that would ordinarily be espoused by the United States Government and thereby "give rise to a claim under international law". Hackworth, in his Digest of International Law at pages 611 and 612, volume 5, states:

> "Generally speaking the Department of State does not intervene in cases involving breaches of contract between a foreign state and a national of the United States in the absence of a showing of a denial of justice. However, it may use its informal good offices in appropriate cases in an effort to bring about an adjustment of differences. The practice of declining to intervene formally prior to a showing of denial of justice is based on the proposition that the Government of the United States is not a collection agency and cannot assume the role of endeavoring to enforce contractual undertakings freely entered into by its nationals with foreign states.

. . . . . .

> "'It should be understood that if a sovereign, to whose attention the United States brings the matter of a contractual claim, denies the validity of the claim or refuses its payment, the United States Government does not ordinarily press the matter further, since by the law of nations there is no redress for the repudiation of such a claim . . .'"

In the case of bonds, particularly those payable in currency other than United States dollars, there is doubt as to how far the state of the creditors should treat non-payment as a violation of international law of the debtor state, giving rise to a claim enforceable at international law. The Department of State has taken the position 1/

> "While the situations created by default on foreign bonds, whether partial or complete, are given constant study by the Department of State, it has been the policy of this Government to consider them primarily matters for direct negotiation and settlement between the foreign debtors and the American bondholders or their representatives. American citizens who purchase such obligations do so upon their own responsibility and at their own risk. While the Department is always glad to facilitate settlements in such cases when possible, it has long been the policy of the Department, repeatedly stated by various Secretaries of State, generally to decline to intervene in the enforcement of such obligations, save under very exceptional circumstances, as, for example, where American nationals are discriminated against in connection with payments made by a foreign government on its obligations."

The situation might be different if this Commission were authorized to resolve claims arising out of a treaty or pursuant to an agreement or convention entered into between the United States and a foreign government. This, of course, is not the case under consideration in connection with the so-called Soviet Fund inasmuch as Section 305, Public Law 285, 84th Congress did not come into being as the result of a treaty, agreement or convention. The fund involved was assigned outright to the United States Government by the Soviet Government by virtue of the Litvinov Assignment (Section 301, Paragraph 6) and without any condition attached as to who was to be the beneficiary. That was for the Congress to decide. Inasmuch as

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1/ The Assistant Secretary of State (Wells) to Samuel O. Leslie, June 14, 1935, M.S. Department of State 832.51/1054.

the Act did not specifically provide that the holders of bonds which, if otherwise eligible, share in the fund, we must look to the Congressional Record to find the answer. The explanation appears quite clear.

During the hearings before the Congress, no mention was made whatsoever with respect to Russian bonds payable in other than United States Dollars. The report of the House Committee on Foreign Affairs (House Report No. 624, 84th Congress) which considered the bill recites the following with respect to claims against Russia:

> "Estimated number of claimants ------ 3,000 to 3,500;
> "Estimated total of claims to be filed 425 million;
> "Funds available to pay claims ------ 9 million."

Actually the predecessors of the Soviet Government had issued and outstanding approximately the equivalent of 8 billion dollars in internal and external loans (bonds) payable in currencies other than United States dollars at the time of repudiation of such obligations by the Soviet Government.[2/]

To date, the various types of claims filed with the Commission against the Soviet "fund" including claims based on non-dollar bonds, exceed 3.5 billion dollars.

That not all claims, assuming that they may give rise to a recognized international claim, were to be compensated out of the limited funds available, is evidenced by the following which appears on page 5 of Report No. 624, 84th Congress, First Session of the Committee on Foreign Affairs, report under subtitle E, "Unsettled Claims":

> "Although this bill is an international claims settlement bill, it should be made clear that all claims of American citizens against the Soviet Union and the three satellite countries will not be settled by virtue of its passage. We have been informed that approximately 9,000 American nationals have claims of over half a billion dollars against the Soviets, Hungary, Rumania, and Bulgaria. Under this bill only $36 million is available to 'settle' all of these claims against these four countries. This bill does not include claims arising since the treaties for

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2/ Annual Report of the Foreign Bondholders Protective Council for the year 1950, Instructions of the Peoples Commissar of Finance, (Soviet Government) November 14, 1918, No. 5598.

> nationalization, compulsory liquidation, or other siezure, and it does not include as claimants the large number of persons who have become American citizens since the treaties were ratified. It would therefore be a mistake to consider this bill as doing justice to Americans whose rights have been violated by the Soviets and their satellites. There is no way in which this bill can be amended to do justice to all of these claimants and all of their claims by distributing $36 million. Every proposed amendment which would increase the number of claims or claimants will proportionately reduce the amount that each claimant receives and to that extent increase the injustice for all.
>
> "The way to secure justice for these thousands of American citizens with their millions in claims is to induce the Soviets and their satellites to recognize, adjudicate fairly, and then pay these claims. All of them are based upon promises, agreements, and international law which prevails among civilized nations . . ."

It is the view of the Commission that Congress did not contemplate the participation in the limited fund available of a limitless number of claimants owning a limitless and wholly unknown amount of Russian Government bonds, other than those expressed in currency of the United States, issued over a period of many years prior to the repudiation of such obligations by the Soviet Government.

It is the finding of the Commission that claims based upon losses arising out of the ownership of repudiated Russian Government bonds, and/or bonds of Russian corporations guaranteed by such Government, expressed in currency other than that of the United States are not within the purview of Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended. Accordingly, this claim must be, and is, denied. Other elements bearing upon eligibility and entitlement have not been considered.

Pearl Carter Pace

Pearl Carter Pace, Commissioner

Henry J. Clay

Henry J. Clay, Commissioner

Chairman Gillilland dissents:

Although it seems probable that most or nearly all of the claims in this class would eventually have to be rejected on grounds which have not

thus far been administratively developed, I cannot support their rejection on the grounds asserted by the majority. I find no ambiguity in the statute which leaves room for a distinction between dollar obligations and ruble obligations, nor do I find anything in the history of the bill which indicates an intention that ruble obligations were intended to be rejected as such. This is contrasted with the related provisions of the same Act of Congress (Sec. 303 Public Law 285, 84th Congress, 2nd session) applicable to claims against Bulgaria, Hungary and Rumania which limit compensability to "obligations expressed in currency of the United States." It is reasonable to assume that if Congress had intended a similar limitation here similar language would be found in Section 305.

It is to be noted that the references to international law set forth in the decision indicate no distinction between dollar obligations and ruble obligations.

Dated at Washington, D. C.

DEC 19 1956

Whitney Gilliland

Whitney Gilliland, Chairman

This is certified to b