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## Book Review of International Claims

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## INTERNATIONAL CLAIMS

By RICHARD B. ILLICH. Syracuse: Syracuse University Press, 1962. 140 pp. \$5.00.

The settlement of private grievances against foreign nations has become an extremely serious problem since World War II. The "Cold War" has been the basic cause of this problem. However, another significant factor has been the political and economic upheaval that has occurred in Asia and Africa since 1945.

Ideally, these international claims would be aired before an international tribunal in order to facilitate their settlement. Many proposals in support of this procedure have been made, but unfortunately none of them have been universally adopted. Since states are traditionally regarded as the only subjects of international law, a second possibility is mixed claims commissions. Under this procedure, the nation of which the private claimants are citizens appoints commissioners to meet with commissioners of the foreign nation and together, the commissioners decide which claims will be compensated. The United States resorted to this kind of commission as early as the Jay Treaty with Great Britain in 1794. While these commissions were successful in replacing political determination by legal process, it soon became evident that the degree of success depended almost entirely on the ability of the commissioners. If the commissioners were judicial and impartial, the mixed commission was a useful device for the settlement of these claims; but if they were of a nonjudicious and adversary temperament the commission was unable to accomplish anything. One of the commissions established by the Jay Treaty was abandoned for this very reason.

Thus, beginning in 1803, the United States sought to settle the international claims of its citizens through national claims commissions. The function of these commissions was to distribute to eligible claimants funds made available from: (1) a lump sum settlement made by the United States with a foreign country, (2) an appropriation made by the United States in consideration for something the foreign country did or promised to do, or (3) vested assets of a foreign country held by the United States. In each of these three cases it was intended to

satisfy a large group of claims held by American citizens against a single foreign country.

The United States has continued to support the system of national claims commissions until the present day. There are several reasons for this policy. First, adjudication of claims can be accelerated by cutting the red-tape which seems unavoidable when one country is claimant and the other is respondent. It is also advantageous when relations between the United States and the foreign country are not of the best, because no agreement is required on individual claims. All that is necessary is a single agreement setting the amount of money that will be provided in the lump sum payment. Furthermore, foreign governments favor lump sum payments in order to close out the matter as expeditiously as possible. As long as there are outstanding claims against a nation, conditions are not favorable for the increase of foreign trade and the lump sum payment method is the quickest method of removing these claims. This economic argument has been used frequently by the United States to convince a foreign nation of the necessity of reaching an agreement. It has proved particularly effective when dealing with undeveloped nations who are now realizing the need to stimulate their foreign trade if they are to make any progress towards their goal of modernization.

From what has been said, it is obvious that national claims commissions play a significant role in our foreign policy. In his book, *International Claims: Their Adjudication by National Claims Commissions*, Robert B. Illich has made a short study of the national claims commissions that have been established by the United States since 1803. Dr. Illich recognizes that his study is far from complete. In the preface to the work, he states:

The present study is designed to serve as a hard core for future grass-roots research in this area on an enlarged and comparative basis.

There can be no doubt that substantial research is needed on national claims commissions. There is no major work on the subject and it has acquired the passing attention of only a few writers. It is apparent that there is still much to be done in this field, and it is sincerely hoped that Dr. Illich will carry out the task he has set to himself. This book should operate as a springboard for his larger project.

ALLAN H. HARBERT