A further legal question with respect to the nationality of claimants arises under the Hungarian Peace Treaty of 1947,[11] the benefits of which are extended to "United Nations Nationals" and those persecuted for racial or religious reasons during the conflict. A number of the Canadian claimants become eligible under the provisions of that Treaty.

Another legal problem which has arisen is in connection with the proof of claims, and obtaining evidence to satisfy that proof. In an ordinary law-suit in our courts concerning the title to land, the abstract of title is on public record, available to both parties. The difficulties of a plaintiff in a domestic law-suit would be immensely increased if the abstract of title was under the exclusive control of the defendant. But in the case of the Hungarian claims these difficulties are further compounded by a Hungarian law which prohibits the delivery of information or documentation with respect to nationalized land!

At the root of the legal stand-off which exists at the moment with respect to the Hungarian claims is a fundamental difference in approach. The Canadian claims which have been put forward are founded on the principles of the law of nations. They have been countered by Hungarian negotiators on the basis of domestic Hungarian laws. There has not been a fundamental meeting of the minds on the applicable law. Those who have read Professor McWhinney's recent work on the comparison of Soviet and Western law[12] will recognize that these difficulties spring from the basic difference in approach and philosophy of those under the different systems. It is little wonder that any progress toward final resolution of the claims is hard-won.

As the Canadian Secretary of State for External Affairs, Mr. Paul Martin, pointed out to the International Law Association in 1964,[13] the rules of international law applicable to the rights of aliens, and more particularly those related to the rights of aliens in the face of expropriation, are not satisfactory.

The current negotiations with the countries of Eastern Europe have not produced any amelioration of these rules, and are not likely to do so. In one sense the arrangements between Canada and the various Eastern European states are of a non-recurring, once-and-for-all nature. They reflect the political change from a free enterprise, private property system to a communist one. While the problems are not likely to present themselves in the same fashion with the same parties, these are important lessons to be learned from the Canadian experience, and it would be of value to apply these lessons in the future. For Canada is becoming more, not less, involved in economic development, both private and public, abroad. While it is not anticipated that our foreign interests will be challenged in the exclusive way experienced with the sovietization of Eastern Europe, it is not inconceivable that shifts in policy in even the most friendly of states can pose serious challenges to the Canadian investor abroad. Rather than forgetting our hard-won experience in these negotiations, we would stand to

---

[11] *1947 Canada Treaty Series No. 5.*

[12] Edward McWhinney, *Peaceful Coexistence and Soviet-Western International Law.* (Leyden, 1964.)

[13] "International Law in a Changing World: Value of the Old and the New," *External Affairs,* Vol. XVI, No. 12, December 1964, pp. 586, 590-1.