

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

CHARLES ADAMS BURNETT

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0114

Decision No. CU 3455

Counsel for claimant:

Rufus King, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by CHARLES ADAMS BURNETT and is based upon the asserted loss of improved real property and personalty in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949, [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant contends that he lost his residence in Playa de Tarara Development in Havana Province, Cuba, together with certain personal property. He initially described the loss as follows in his claim form:

Land	\$ 8,000
House	12,000
Personalty	3,500
Improvements	700

In his affidavit of December 16, 1965, he valued the improved realty at \$18,000 and itemized furnishings at \$4,200. In his letter of January 8, 1968 claimant has reiterated reliance on this and related affidavits, and further sets out the balance of the mortgage on the property.

On the basis of the record, including affidavits of former neighbors of claimant, and a report from sources in Cuba, the Commission finds that claimant was the owner of a house at Road 11 #33407 in Playa de Tarara Development in Havana Province, and that while the property was in the care of a custodian, on or about November 15, 1960, agents of the Government of Cuba entered the property, evicted the caretaker and took possession of the property.

The record includes the report from sources in Cuba stating that the property was acquired for \$15,500, affidavits from persons who were neighbors of claimant in Cuba, including an insurance agent, giving their opinion of the value of the property. On the basis of the whole record the Commission finds that the realty had a value of \$18,000, but that it was encumbered by a mortgage having a balance in the amount of \$8,858.56. After deduction of this amount claimant's equity in the property is found to be \$9,141.44. With respect to the personalty, the Commission has carefully considered the claimant's listing and finds that the amount of \$4,200 is a fair value for the personal property taken on November 15, 1960 by the Government of Cuba.

Accordingly, the Commission concludes that claimant suffered a loss of \$13,341.44 within the meaning of Title V of the Act as a result of the taking of his real and personal property by the Government of Cuba on November 15, 1960.

The Commission has decided that in certification of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case, it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that CHARLES ADAMS BURNETT suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirteen Thousand Three Hundred Forty-One Dollars and Forty-Four Cents (\$13,341.44) with interest at 6% per annum from November 15, 1960 to the date of settlement.

dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JAN 14 1969

Leonard v. P. Sutton

Leonard v. P. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)