

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

IN THE MATTER OF THE CLAIM OF

CATHERINE TOENNESSEN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0921

Decision No. CU -  
1521

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$4,448.99, plus interest, was presented by CATHERINE TOENNESSEN, and is based upon the asserted loss of interests in bonds issued by the Cuba Northern Railways Company. Claimant stated that she has been a national of the United States since her 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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

This claim was filed with the Commission on December 28, 1966 and is asserted on the basis of claimant's interest in seven bonds in the original face amount of \$1,000.00 each, issued by the Cuba Northern Railways Company, a Cuban corporation. The record shows that Cuba Northern Railways Company was nationalized by Cuban Law 890 effective on October 13, 1960. Therefore, if claimant owned bonds issued by that company, they represented a debt of a nationalized enterprise as defined in Section 502(3) of the Act (supra). However, claimant states that she sold the subject bonds on December 29, 1966. She has subsequently amended her claim and now asserts the loss of the unpaid balance of the bonds plus interest at 4% per annum, from December 1, 1958 to December 29, 1966.

It is apparent from claimant's own statements that she no longer owns a claim based upon a debt of a nationalized enterprise. She has not proven that she retained any interest in a claim based on such a debt subsequent to her sale of the subject bonds. Therefore, in the absence of evidence to the contrary, the Commission concludes that when claimant sold her bonds, she

transferred all rights incident thereto. (See the Claims of Harry Mitgang and Anna Mitgang, FCSC Claim Nos. CU-2649 and CU-3736).

Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

APR 10 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on MAY 21 1968

*Francis Thacker*

Clerk of the Commission

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).)

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