

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

IN THE MATTER OF THE CLAIM OF

HAROLD D. KRAFT AND HERBERT S. FURST  
EXECUTORS OF THE ESTATE OF  
ALBERT KRAMER, DECEASED

Claim No. CU-1019

Decision No. CU 1930

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Milton G. Tunick, Esquire

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 \$10,000.00, was presented by HAROLD D. KRAFT and HERBERT S. FURST, EXECUTORS OF THE ESTATE OF ALBERT KRAMER, DECEASED, and is based upon the asserted loss of interests in bonds issued by The Cuba Railroad Company, a Cuban corporation. The decedent was a national of the United States since his naturalization on November 9, 1920.

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).)

Other than statements as set forth in the claim form filed on February 13, 1967, no evidence was submitted in support of this claim. Accordingly, by Commission letter of February 14, 1967, claimants were advised, through counsel, as to the type of evidence proper for submission in order to establish this claim under the Act. Specifically, it was suggested that claimants submit a certified copy of Letters Testamentary as issued to the Executors of the Estate; the original bonds issued by The Cuba Railroad Company to the decedent; and evidence to establish both dates of purchase of the bonds and the price paid therefor. Additionally, it was suggested that counsel submit evidence to establish the United States nationality of the beneficiaries of the decedent's estate. No reply was received to the Commission's suggestions. Additional suggestions were made in Commission letter of January 16, 1968.

Thereafter, on March 20, 1968, counsel was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby 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

MAY 29 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

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).)