

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

IN THE MATTER OF THE CLAIM OF

WARREN R. WELLS

ELIZABETH K. WELLS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1510

Decision No. CU
1901

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 \$20,000.00, was presented by WARREN R. WELLS and ELIZABETH K. WELLS and is based upon the asserted loss of an investment in land. Claimants have been nationals of the United States since their 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 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 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

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.

The evidence of record herein includes a Deed submitted by claimants, as well as other information available to the Commission, which discloses that claimants herein, WARREN R. WELLS and ELIZABETH K. WELLS, were the owners of 30 acres of unimproved land which was located in portions of lots 9 and 14, Sections 9 and 25, of the Hacienda Santa Rosalia Estates, Sierra de Caballos, Isle of Pines, Cuba; that this property was transferred to them in 1942 by Frank S. Rothenhoefer and that claimants herein were the registered owners of such land at the time of the asserted loss.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stock, bonds and securities of persons who had left the country. As the record shows, in December 1961, claimants resided in the United States. The Commission finds, in the absence of evidence to the contrary, the claimants' investment in the subject real property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109.)

The Act provides, in Section 503(a), that making determinations with respect to the validity and amount of claims and value of properties, rights or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The property register of the Isle of Pines, Volume 145, folio 38, including west half of the east half of Lot 9, Section 25, Hacienda Santa Rosalia, discloses that the value of this parcel when recorded was recited at \$200.00; and that in Volume 145, folio 41, referring to south half of Lot 14, Section 9, Hacienda Santa Rosalia, an evaluation is recited of \$400.00 for this parcel.

The evidence of record includes a map of the Santa Rosalia Estates prepared in 1904, showing sub-division of the land in that area into 40 acre lots. Evidence available to the Commission includes affidavits of former brokers doing business in the sale of acreage in the Hacienda Santa Rosalia Estates and other areas of the Isle of Pines which relate to value of such units or lots, estimated to vary in value from \$100.00 to \$500.00 per acre. The values of such lots depended on size, location, natural attributes of such land and other factors. Evidence of record before the Commission in this and related claims involving land in the area of the Hacienda Santa Rosalia Estates, Isle of Pines, discloses that an acre of land in an average lot would have a value of \$200.00 per acre at time of loss in 1961; and, that the 30 acres involved in this claim, in the absence of evidence to establish a higher value, had a value of \$6,000.00 at time of loss. Accordingly, the Commission concludes that claimants herein suffered a loss in the amount of \$6,000.00, within the meaning of Title V of the Act, when the subject land, having an area of 30 acres, was taken by the Government of Cuba.

The Commission has decided that in certification of losses 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 Claim of Lisle Corporation, Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that WARREN R. WELLS and ELIZABETH K. WELLS 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 Six Thousand Dollars (\$6,000.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement.

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

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 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).)