

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

IN THE MATTER OF THE CLAIM OF

HENRY PACKARD WHITE

Claim No. CU-1770

Decision No. CU-

983

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Allen R. Cole, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by HENRY PACKARD WHITE, a national of the United States since his birth in the United States, in the amount of \$18,000.00, in connection with nineteen (19) bonds known as 4 1/2% Bonds of the External Debt of the Republic of Cuba, 1937-1977.

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,

On the basis of evidence of record, the Commission finds that claimant is, and has been at all times pertinent to this claim, the owner of nineteen (19) bonds of the issue known as 4 1/2% Bond of the External Debt of the Republic of Cuba, 1937-1977, two of which bear Nos. D 634 and D 894, each in the principal amount of \$500.00, with 34 interest coupons attached, each in the amount of \$11.25, payable semiannually, the earliest maturing on December 31, 1960, and the latest on June 30, 1977; and seventeen (17) of which bear Nos. M 70411, 70413, 70415, 70419, 70421, 70422, 70423, 70424, 70426, 74390, 74392, 74393, 74398, 74399, 74400, 74402 and 74404, respectively, each in the principal amount of \$1,000.00, with 34 interest coupons attached, each in the amount of \$22.50, payable semiannually; the earliest maturing on December 31, 1960, and the latest on June 30, 1977. Each of the above-numbered bonds, as a "debt owed by the Government of Cuba", clearly constitutes property within the meaning of the term as defined in Section 502(3) of the Act, quoted above.

A study of the history of events with respect to bond obligations of the Republic of Cuba reveals that the Cuban Government defaulted on the payment of interest on bonds of this issue on December 31, 1960 (See Foreign Bondholders Protective Council, Inc., Annual Report 1958-1961, p. 52), but other than continued failure to make payments under its obligation, has taken no positive action concerning the rights of bondholders. The question arises whether such nonpayment may be deemed a nationalization, expropriation, intervention, or other taking of, or special measures directed against the property of the bondholder within the meaning of Section 503(a) of the Act. This question has been affirmatively decided by the Commission. (See the Claim of Clemens R. Maise, FCSC Claim No. CU-3191), which determined that the failure of the Government of Cuba to make the obligated payment on December 31, 1960, even without express repudiation of the bonds, occurring, as it did, for the first time after January 1, 1959, constituted a taking on

that date of the property of the bondholder within the meaning of the Act; and gives rise to a valid claim for the amount of the unpaid indebtedness as of that date.

The Commission finds that the amount of the unpaid indebtedness on claimant's bonds on December 31, 1960, the date of loss, was \$18,405.00, including the respective principal amounts having an aggregate total of \$18,000.00 and the total interest due on said bonds as of December 31, 1960, in the amount of \$405.00.

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from December 31, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amount which may be asserted by claimant as the extent thereof.

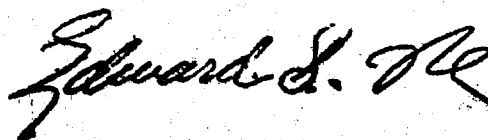
CU-1770

CERTIFICATION OF LOSS

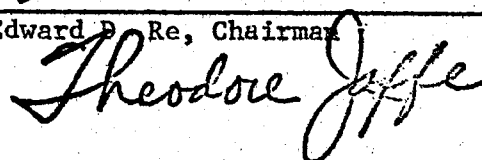
The Commission certifies that HENRY PACKARD WHITE suffered a loss, as a result of action of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighteen Thousand Four Hundred Five Dollars (\$18,405.00) with interest thereon at 6% per annum from December 31, 1960 to the date of settlement.

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

JAN 24 1968



Edward D. Re, Chairman



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.

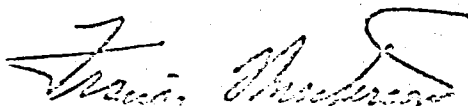
NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless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

NOTICE TO TREASURY: The above listed bonds may have been returned to claimant and no payment should be made until they are resubmitted.

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on FEB 27 1968

CU-1770



Clerk of the Commission