

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

IN THE MATTER OF THE CLAIM OF

ERNEST HARPER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2783

Decision No. CU 350

Counsel for Claimant:

Sebastian Frisof, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$25,000.00, was presented by ERNEST HARPER based upon the asserted loss of bonds issued by the Cuban Northern Railroad and the Republic of Cuba. Claimant states that he has been a national of the United States since his naturalization in January 1946.

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)]⁷, 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 of 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 in all issues involved in the determination of his claim. (FCSC Reg. 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership of certain bonds issued by the Cuban Northern Railroad and the Republic of Cuba; however, claimant has submitted no documentary evidence in support of his claim. By Commission letter of June 14, 1967, claimant was advised through counsel, as to the type of evidence proper for submission to establish his claim under the Act.

On July 19, 1967, counsel was invited to submit any evidence he might have 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 present record. Counsel or claimant have not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof, in that he has 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.

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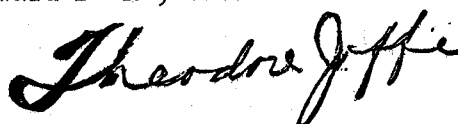
The Commission deems it unnecessary to determine other elements of this claim.

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

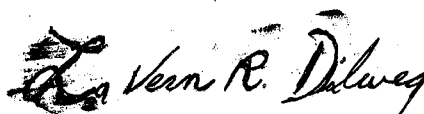
SEP 20 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

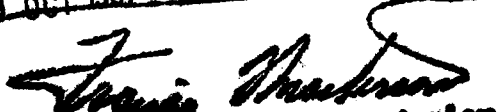


LaVern R. Dilweg, Commissioner

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).)

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Commission
This is a true and correct copy of the decision
of the Commission entered as the final
decision on 20 OCT 1967


Clerk of the Commission