

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

IN THE MATTER OF THE CLAIM OF

BEATRICE CORN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3532

Decision No. CU 4947

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 \$1,000.00, was presented by BEATRICE CORN and is based upon the asserted loss of interest in a bond issued by the Cuba Northern Railways Company. Claimant states that she was born in New York City.

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).)

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."

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

In support of her claim claimant has submitted Bond No. M18590 in the face amount of \$1,000, issued by the Cuba Northern Railways Company known as "First Mortgage Gold Bonds, 4%, due June 30, 1970", which the Commission has determined had a value of \$682.56 including interest on October 13, 1960, the date of loss.

By Commission letter of August 8, 1967 claimant was advised as to the type of evidence, including evidence of her United States nationality, proper for submission to establish her claim under the Act. Thereafter on October 31, 1967 she submitted the bond subject of this claim.

On October 7, 1968 she was informed of the reduction in the Commission's staff and reminded of the elements of the claim to be established. On September 4, 1969 she was reminded that evidence of her United States nationality had not been submitted. On November 19, 1969 she was again reminded and additional suggestions were made as to establishing her United States nationality. She was informed that after 30 days the Commission might proceed to determine the claim on the basis of the existing record. No reply to these letters has been received.

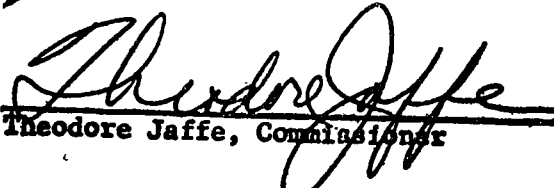
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights


and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba from a national of the United States. Thus, the Commission is constrained to deny this claim and it 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

JUN 3 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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).)