

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

IN THE MATTER OF THE CLAIM OF

SIDNEY W. DAVIDSON and CHEMICAL  
BANK NEW YORK TRUST COMPANY as  
Executors of the Estate of  
ROBERT GOELET, Deceased

Claim No. CU-3551

Decision No. CU 2042

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimants:

White & Case

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 \$33,185.10, was presented by SIDNEY W. DAVIDSON and CHEMICAL BANK NEW YORK TRUST COMPANY as Executors of the Estate of ROBERT GOELET, Deceased, and is based upon 39 Cuba Railroad Company Improvement and Equipment 5% Fifty-Year Gold Bonds due in 1970. The late ROBERT GOELET was a national of the United States from the date of his birth on January 9, 1880, until his death on February 6, 1966.

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 the late ROBERT GOELET, now deceased, acquired prior to October 13, 1960, and owned until his death on February 6, 1966, thirty-nine (39) Cuba Railroad Company Improvement and Equipment 5% bonds, due in 1970, each in the original face amount of \$1,000.00, issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952, and December 1, 1959, with Chemical Bank New York Trust Company as successor Trustee. The bonds bear serial numbers M799 to and including M837. From the date of the late ROBERT GOELET'S death the bonds in question were owned by the beneficiaries of his Estate. Under the Last Will of the late ROBERT GOELET all four beneficiaries of the residue of his estate, namely Ogden Goelet, Peter Goelet, Robert Goelet, Jr., and Mary Goelet Cross have been nationals of the United States since their respective dates of birth.

By Indenture dated July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, the Cuba Railroad Company issued dollar bonds secured by mortgage upon the realty and equipment of the Company. By the Supplemental Indenture of July 1, 1952, the bonds were reissued as 4% bonds, due June 30, 1970. As of 1952, the outstanding principal balance on each \$1,000.00 bond was \$635.00, with interest at 4% per annum to be paid on the principal balance.

The record shows that the properties of the Cuba Railroad Company were listed as nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. The Cuba Railroad Company, incorporated in the State of New Jersey, was wholly owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation.

The Cuba Railroad Company thus would not qualify as a national of the United States under Section 502(1)(B) of the Act which defines the term "National of the United States" as including a corporation or other legal entity which is organized under the Laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. Claimants are therefore entitled to file this claim based upon the bonds of the decedent which represent a debt which was a charge upon property which has been nationalized by the Government of Cuba as defined in Section 502(3) of the Act (supra).

(See Claim of Edgar F. Corliss, Claim No. CU-0785.)

The Commission concludes that as a result of the nationalization of the properties of the Cuba Railroad Company, the decedent suffered a loss in connection with his bonds within the meaning of Title V of the Act.

With regard to the value of the bonds on the date of loss, information available to the Commission discloses that no part of the outstanding principal balance was ever paid, and that the last payment of interest was made on November 1, 1958.

The Commission, therefore, finds that the amount of the unpaid indebtedness on decedent's bonds on October 13, 1960, the date of loss, was \$26,702.52, including the principal amount of \$24,765.00, and the interest due on the bonds in the amount of \$1,937.52.

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 loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SIDNEY W. DAVIDSON and CHEMICAL BANK NEW YORK TRUST COMPANY as Executors of the Estate of ROBERT GOELET, Deceased, succeeded to and 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 Twenty-Six Thousand Seven Hundred Two Dollars and Fifty-Two Cents (\$26,702.52) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

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

3 JUL 1968

*Richard v. B. Sutton*  
Richard v. B. Sutton, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*Sidney Freidberg*  
Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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).)