

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

IN THE MATTER OF THE CLAIM OF

MARY E. GIBSON, ADMINISTRATRIX
OF THE ESTATE OF
ANNA LEE TUCKER, DECEASED

Claim No. CU-3738

Decision No. CU -1980

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

R. James Unruh, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision issued June 13, 1968, this claim filed by ANNA LEE TUCKER was denied. Said claimant, a national of the United States since birth, having died, MARY E. GIBSON, Administratrix of her Estate, is substituted as claimant. Further evidence having been submitted, and the matter considered, it is

ORDERED that the Proposed Decision be and it is hereby amended.

The Commission now finds that the decedent owned 100 shares of Vertientes-Camaguey Sugar Company and 200 preferred shares of Cuba Railroad.

In our decision entitled the Claim of Irwin Nack, et al (Claim No. CU-1960 which we incorporate herein by reference), we held that the properties owned by the Railroad were nationalized or otherwise taken by the Government of Cuba on October 13, 1960; and in our decision entitled the Claim of Ruth Anna Haskew (Claim No. CU-0849 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of

claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per preferred share of Cuba Railroad as \$100 per share; or value per share of Vertientes as \$46.3946 per share.

On the basis of evidence in the record in the instant case, the Commission finds that this decedent came within the terms of the Haskew and Nack decisions; that she was an American national at the requisite times; that she had been the owner of 100 shares of stock in the Cia. Azucarera Vertientes-Camaguey de Cuba since prior to August 6, 1960 and the owner of 200 preferred shares of Cuba Railroad since prior to October 13, 1960; that she suffered a loss in the amount of \$24,639.46 within the meaning of Title V of the Act; and that upon her death, the Administratrix of her Estate succeeded to the loss. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from the dates of loss, to the date on which provisions are made for the settlement thereof (see Haskew and Nack, supra), as follows:

<u>FROM</u>	<u>ON</u>
August 6, 1960	\$ 4,639.46
October 13, 1960	<u>20,000.00</u>
	\$ 24,639.46

Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that MARY E. GIBSON, ADMINISTRATRIX OF THE ESTATE OF ANNA LEE TUCKER, DECEASED, succeeded to 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-four Thousand Six Hundred Thirty-nine Dollars and Forty-six Cents (\$24,639.46) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

JAN 29 1969

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Frolberg
Sidney Frolberg, 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 for 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 Amended 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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IN THE MATTER OF THE CLAIM OF

ANNA LEE TUCKER

Claim No. CU - 3738

Decision No. CU - 1980

Under the International Claims Settlement
Act of 1949, as amended

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 \$2,647.25, was presented by ANNA LEE TUCKER, and is based upon the asserted loss of certain stock interests in Cuban corporations. Claimant stated that she has been a national of the United States since her 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 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).)

This claim is based upon asserted shareholder interests in Vertientes Camaguey Sugar Company of Cuba and the Cuban Railroad Company. No evidence has been submitted to the Commission in support of this claim. Accordingly, by Commission letter of July 7, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Specifically, suggestions were made to claimant concerning the submission of the original stocks and bonds as well as evidence to establish her United States nationality.

On January 16, 1968, claimant was invited to submit any evidence available to her within 45 days from that date, and she was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

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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. Accordingly, this claim 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 13 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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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