

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

**IN THE MATTER OF THE CLAIM OF**

ELIZABETH B. ARBUTHNOT, WILLIAM B. ARBUTHNOT,  
AND ELIZABETH V. BLACKBURN, EXECUTORS OF THE  
ESTATE OF JOSEPH W. ARBUTHNOT, DECEASED

**Claim No. CU -4928**

**Decision No. CU 1519**

**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 \$635.00, was presented by ELIZABETH B. ARBUTHNOT, WILLIAM B. ARBUTHNOT, AND ELIZABETH V. BLACKBURN, EXECUTORS OF THE ESTATE OF JOSEPH W. ARBUTHNOT, DECEASED. The claim is based upon the asserted loss of an interest in a bond issued by Cuba Northern Railways Company, a Cuban corporation.

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).)

The only evidence submitted in support of the assertions set forth in the claim form, filed on September 11, 1967, was a copy of the Letters Testamentary on the Estate. Accordingly, by Commission letter of September 18, 1967, suggestions were made to the Executors in regard to additional evidence and information necessary to establish this claim under the Act. Specifically, it was suggested that evidence be submitted to establish the dates of purchase of the subject bond; that evidence be submitted to establish whether the Estate was open or had been closed; and, in case the Estate had been closed, that a certified copy of the Decedent's Last Will and Testament, as admitted to Probate, be submitted. The only evidence submitted in response to this request was a certified copy of the decedent's death certificate.

On November 16, 1967, the Executors of the Estate were advised that the previously requested evidence and information had not been submitted. They were further advised that unless such evidence was

submitted within 45 days from that date, it might become necessary to determine the claim on the basis of the existing record. No evidence or correspondence regarding the claim has been received to date.

The Commission finds that claimants have not met the burden of proof in that they have 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 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.

**APR 10 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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