

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

IN THE MATTER OF THE CLAIM OF

RUTH L. CARY
and
JOHN CARY

Claim No. CU-7250

Decision No. CU 6128

**Under the International Claims Settlement
Act of 1949, as amended**

Represented by Cia. Azucarera Atlantica del Golfo

Counsel for Cia. Azucarera Atlantica del Golfo:
Dewey, Ballantine, Bushby, Palmer & Wood - By William C. Bush, Esquire

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by RUTH L. CARY and is based upon the asserted loss of a stock interest previously owned by her father, Isaac A. Cary, a national of the United States since birth. Claimant RUTH L. CARY has submitted evidence to establish that she is a national of the United States since birth but similar evidence has not been received from JOHN CARY.

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) (1970).)


This claim is based on loss arising from the asserted ownership of stock in Cia. Azucarera Atlantica del Golfo, owned previously by the late Isaac A. Cary who died in 1964, and which was assertedly inherited by claimants herein.

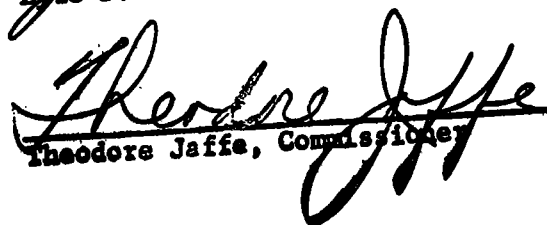
By Commission letters of March 30, 1970, April 29, 1970, and November 18, 1970, claimants were advised as to the type of evidence proper for submission to establish this claim under the provisions of Title V of the Act. Thereafter, by Commission letters of December 2, 1970, and February 24, 1971, the Commission made additional suggestions to claimants concerning the submission of supporting evidence in this matter. However, evidence to establish this claim under the provisions of the Act has not been submitted.

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 from United States nationals. 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

MAR 24 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner