

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

IN THE MATTER OF THE CLAIM OF

JOHN HENRY PAUL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8474

Decision No. CU 6189

Counsel for claimant:

John G. Smith, Esq.

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 \$1,343.20, was presented by JOHN HENRY PAUL on February 26, 1970 and is based upon the asserted loss of interests in bonds issued by the Cuba Railroad Company. Claimant has been a national of the United States since 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) (1970).)

Claimant asserted ownership of two bonds issued by the Cuba Railroad Company and known as First Mortgage Gold Bond, 4%, due June 30, 1970 and assertedly valued at \$1,343.20.

In our decision entitled the Claim of Joseph Gans (Claim No. CU-1720), we held that the properties of the Railroad were nationalized or otherwise taken by the Government of Cuba on October 13, 1960; that this type of claim is compensable to an American national under the facts and conditions set forth therein; and that the value per \$1,000 bond was \$492.86 including interest to October 13, 1960.


In the Commission letters of June 18, 1970, June 30, 1970 and August 27, 1970 it was suggested to counsel that he submit evidence that claimant's predecessor in interest owned the subject bonds prior to October 13, 1960; and that claimant inherited the bonds on January 19, 1957 as asserted or if claimant became the owner of the subject bonds after October 13, 1960 evidence be submitted to establish the actual consideration paid at said time. (See Claim of Samuel J. Wikler, et al., Claim No. CU-2571, 1968 FCSC Ann. Rep. 47.) This evidence has not been received to date.


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The Commission finds that claimant has failed to establish a loss certifiable under the Act. Claimant has not met the burden of proof. Thus, the Commission is constrained to deny this claim and it is hereby denied.

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

MAY 12 1971


Lyle S. Garlock, Chairman


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 (1970).)