

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

HELEN A. EKSTEIN, Individually
and as Executrix of the Estate
of ALFRED ABELES, deceased
1349 Lexington Avenue
New York, New York

Claim No. CZ-2649

Decision No. CZ- 982

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

Counsel for Claimant:

Charles Evans, Esquire
295 Madison Avenue
New York 17, New York

PROPOSED DECISION

This is a claim in the amount of \$10,909.00 against the Govern-
ment of Czechoslovakia under Section 404 of Title IV of the Inter-
national Claims Settlement Act of 1949, as amended, by HELEN A. EKSTEIN,
individually and as Executrix of the Estate of ALFRED ABELES, deceased;
HELEN A. EKSTEIN is a national of the United States since her birth
in the United States on April 26, 1904.

The claim is based on the nationalization or other taking of two
deposits in the amounts of 167,245 and 225,063.30 Czech crowns
respectively, deposited with the Zivnostenska Banka of Prague, Czecho-
slovakia. The amount of 167,245 crowns was deposited to the account
of ALFRED ABELES, claimant's testator, and the amount of 225,063.30
for the benefit of the Estate of Dr. MILTON ABELES, claimant's
deceased brother.

The record shows that the deposit of 167,245 crowns in the account
of ALFRED ABELES, deceased, was converted in 1953 pursuant to the
monetary reform law No. 41/53 Sb. to 7,889 Czech crowns in new (post-1953)
currency, and that subsequent to 1953 such balance remained with the

C-12
C-14

bank for the benefit of the Estate of ALFRED ABELES, deceased, in a so-called "foreign account" with the Zivnostenska Banka.

The record herein indicates that the deposit of ALFRED ABELES was converted at a sliding scale which was generally in use for all the savings accounts and which resulted in the establishment of a balance of 7,889 Czech crowns in new currency.

Balances resulting from the currency reform in favor of creditors in foreign countries are subject to the same Czechoslovakian foreign exchange controls as the old (pre-1953) currency accounts. However, under certain limitations, the money may be used within Czechoslovakia for the benefit of the owners, for payments to close relatives, for the satisfaction of debts, for donations, and for the use of Czechoslovakian residents.

Section 404 of the Act provides, among other things, for the determination by the Commission, in accordance with applicable substantive law, including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein, owned at the time by nationals of the United States.

It is a recognized rule of international law that a state has the right to make every effort to stabilize its currency in time of financial stress and to make its currency legal tender for the payment of all debts. This may cause a loss in terms of foreign exchange. However, as long as there is no discrimination between nationals and aliens no claim under international law arises. A state is not liable under international law for fluctuations in the value of its currency (In the Matter of the Claim of Borden Covell, Administrator of the Estate of Leo Sigmund Kuhn, deceased, Decision No. 25-B of the

American - Mexican Claims Commission).

It appears that the currency reform of 1953 was principally a readjustment of the monetary system of Czechoslovakia in the light of the economic situation created by the depreciated value of the currency. Claimant's loss was caused by the depreciation in the value of the Czechoslovakian crown, and the conversion of the deposit into new currency only made such loss apparent but was not the proximate cause thereof. There is no evidence to show that the deposit of 167,245 crowns was affected by any action by the Government of Czechoslovakia so as to constitute a taking of property within the purview of Section 404 of the aforesaid Act.

The Commission therefore concludes that the claimant herein has not established that the conversion of the deposit from 167,245 crowns old currency into 7,889 crowns new currency amounted to a nationalization or other taking of property within the meaning of the Act and, therefore, that part of the claim must be and is hereby denied.

On the other hand the study of the history of events with respect to bank and savings accounts in Czechoslovakia reveals that deposits which originated from proceeds of life insurance policies due and payable prior to November 1, 1945, were annulled by the Government of Czechoslovakia pursuant to Section 7 of Law No. 41/53 Sb.

The Commission finds that Dr. MILTON ABELES, a national of the United States and resident of the State of New York was the beneficiary of a life insurance policy issued by the Prague Municipal Life Insurance Company (Prazska Mestska Zivelni Pojistovna); that he died intestate in 1938; that in 1946 the said insurance company transferred to the account of the estate of Dr. MILTON ABELES, deceased, with the Zivnostenska Banka of Prague the proceeds of the life insurance policy in the amount of 225,063.30 Czech crowns; that Dr. MILTON ABELES left surviving him ALFRED ABELES, his father, and HELEN EKSTEIN, the claimant herein, his sister; that under the laws of the State of New York ALFRED ABELES was the sole beneficiary and distributee

of his son's estate; that ALFRED ABELES died in 1947; and that upon her father's death claimant was appointed Executrix of the Estate of ALFRED ABELES, deceased.

The Commission further finds that claimant's right to the payment of the bank account in the amount of 225,063.30 Czech crowns was property within the meaning of Section 401(1) of the Act and that her right to payment was taken by the Government of Czechoslovakia on June 1, 1953 by virtue of the aforesaid Section 7 of Law No. 41/53 Sb.

Accordingly, the Commission concludes, with respect to the instant claim, that the amount of 225,063.30 crowns which was on deposit in favor of the Estate of Dr. MILTON ABELES, deceased, in the Zivnostenska Banka, of Prague, Czechoslovakia, was taken without compensation by the Government of Czechoslovakia on June 1, 1953 pursuant to Law 41/53 Sb. and that claimant as Executrix of the Estate of ALFRED ABELES, deceased is entitled to compensation at the rate of \$1.00 for 50 crowns for such taking under Section 404 of the Act.

A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, an award is hereby made to HELEN A. EKSTEIN, Executrix of the Estate of ALFRED ABELES, deceased in the principal amount of Four Thousand Five Hundred One Dollars and Twenty-seven Cents (\$4,501.27), plus interest thereon at the rate of 6% per annum from June 1, 1953 to August 8, 1958, the effective date of the Act, in the amount of One Thousand Four Hundred Dollars and Sixty-six Cents (\$1,400.66) for a total award in the amount of Five Thousand Nine Hundred One Dollars and Ninety-three Cents (\$5,901.93).

Dated at Washington, D. C.

JUN 27 1960

BY DIRECTION OF THE COMMISSION:
Francis T. Masterson

Francis T. Masterson
Clerk of the Commission

[Handwritten initials]
0213

THIS DECISION WAS ENTERED AS THE COMMISSION'S
FINAL DECISION ON AUG 1 1960

Francis T. Masterson

Clerk of the Commission

ZRR