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

IN THE MATTER OF THE CLAIM OF

LOUIS CHAMPA
370 East 200th Street
Euclid 19
Cleveland, Ohio

Claim No. IT-10,089

Decision No. IT-250-2

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

FINAL DECISION

The Commission issued its Proposed Decision on this claim on June 29, 1959, a certified copy of which was duly served upon the claimant. Full consideration having been given to the objections of the claimant, filed within the ten-day period after such service which has now expired, and general notice of the Proposed Decision having been given by posting for ten days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Washington 25, D. C.

AUG 5 1959

Whitney Hilliland
Pearl Pace
Robert L. Kunzig
COMMISSIONERS

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FOREIGN CLAIMS SETTLEMENT COMMISSION
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Under the International Claims Settlement
Act of 1949, as amended

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PROPOSED DECISION

This is a timely filed claim for \$14,850.00, under Section 304 of the International Claims Settlement Act of 1949, as amended (22 USC 1641c) by Louis Champa, for compensation for internment and maltreatment, loss of earnings during internment, recovery of value of personal property sold during said internment, and non-payment of subsidy allegedly payable to internees, acts attributable to Italian occupation forces in Yugoslavia, during the war in which Italy was engaged from June 10, 1940 to September 15, 1947, and for which no provision was made under the Treaty of Peace with Italy.

This claim was previously denied for the reason that it did not meet the necessary nationality requirements under Section 304 of the Act in that said claim was not continuously owned by a national of the United States from the date of loss to the date of filing and for the reason that provision was made for such claims under Article 78 of the Peace Treaty with Italy and therefore it was not a claim within the purview of Section 304 of the Act.

On August 8, 1958, the following amendment to Section 304 (Sec. 2, Public Law 85-604, 72 Stat. 531) was approved:

Section 304 of the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof

the following: "Upon payment of the principal amounts (without interest) of all awards from the Italian Claims Fund created pursuant to Section 302 of this Act, the Commission shall determine the validity and amount of any claim under this section by any natural person who was a citizen of the United States on the date of enactment of this title and shall, in the event an award is issued pursuant to such claim, certify the same to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund -----."

The Commission has construed the language in the amendment as requiring it to "determine the validity and amount of any claim" of persons who were citizens of the United States on August 9, 1955, notwithstanding the fact that the claim may have been denied under Section 304 of the Act prior to the amendment for reasons other than claimant's failure to meet the test of nationality.

In the light of the foregoing, the claim has been re-examined and it has been determined that the claimant herein, Louis Champa, is a citizen of the United States since his naturalization on May 26, 1955.

Claimant has submitted evidence in support of his allegations that he was a practicing attorney in Yugoslavia at the time of his asserted arrest and internment, and states that his income as an attorney amounted to approximately 10,000 dinars each month; that he was imprisoned for a period of eighteen months and, therefore, his loss of earnings amounted to about 80,000 dinars.

The Commission has consistently held that claims for loss of prospective earnings, because of their uncertain and speculative nature, are not compensable under Section 304, as amended.

Affidavits of persons who were interned at the same prison or concentration camp support the statements of the claimant as to internment and assert mistreatment during imprisonment.

It is a well established principle of international law that a sovereign state may detain, intern, imprison, or even expel enemy

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subjects without violating international law, and the mere fact of internment itself is not a violation thereof in the absence of a showing that a rule of international law was violated during such internment or detention.

The evidence of record fails to disclose that the claimant, following his arrest and during his imprisonment, suffered such treatment as was not in accord with the generally accepted precepts of international law, and that the present ill health of the claimant is a result of the asserted personal injuries suffered during his imprisonment.

Based on the evidence of record, the Commission has determined that this portion of the claim must be and hereby is denied.

Claimant has further asserted that while he was interned it became necessary for his wife to sell certain furniture, furnishings and personalty to maintain herself and family.

This Commission is vested with the authority under the provisions of Section 304, as amended, to receive claims of United States nationals against the Government of Italy for damages and losses arising out of the war in which Italy was engaged. The phrase "damages and loss" has been construed to apply to those which arise as a result of physical damage or loss. Losses which result from a voluntary act on the part of an individual, one free from duress or force, and which may be necessary as an exigency of war, are, in the opinion of the Commission, not such losses as are compensable under Section 304, as amended, and therefore this portion of the claim must be, and hereby is, denied.

Claim also has been asserted for loss of a "subsidy" of 30 lire per month from September 1943 to June 1944 which, it is asserted, was the amount "the allied government decided the Italian

Government should pay to ex-internee people still in Italy."

It appears from the evidence of record that claimant in November 1945 sought to collect the total sum of 3,000 lire assertedly due him, assisted by the police at Trieste, who advised him that application for payment should be made to the relief commission.

Article 34 of the Geneva Convention of July 27, 1929 authorizes the payment of wages, to be fixed by agreements between the belligerents, to prisoners utilized for work other than that connected with the administration, management and maintenance of the camps and further provides that the aforesaid agreement shall specify what part of such earnings shall be retained for administration purposes; the amount which shall belong to the prisoner of war; the manner in which the remaining amount shall be put at the disposal of the prisoner during the period of his captivity, and that any remaining amount shall be delivered to him at the end of his captivity.

The above provisions are directed to payments to be made to prisoners of war during captivity, but the laws applicable at the time of claimant's loss do not make provision for payment of wages for released prisoners of war. The claimant has implied that a similar agreement between belligerents exists relating to payment of wages to ex-internees, but he has failed to submit evidence of such agreement in support of his statements. However, this inference appears to be without foundation in international law.

The Commission is directed under the provisions of Section 304, as amended, to determine the validity of claims received by it, according to applicable substantive law, including international law, and inasmuch as there appear to be no provisions in international law for payment of wages to ex-internees, the Commission has determined that a claim for loss resulting from alleged

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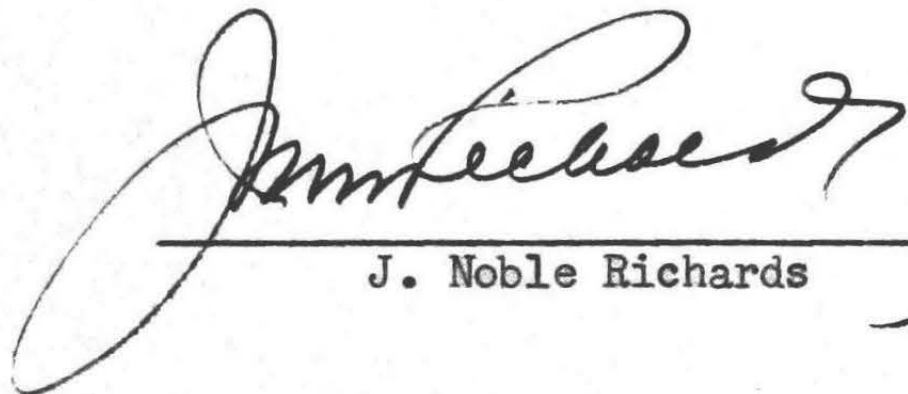
nonpayment of wages or subsidies to ex-internees does not fall within the purview of Section 304, as amended, and for that reason the claim must be, and hereby is, denied.

Other elements bearing on eligibility have not been considered.

Dated at Washington, D. C.

JUN 29 1959

FOR THE COMMISSION:



J. Noble Richards

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

IN THE MATTER OF THE CLAIM OF

LOUIS CHAMPA
370 East 200th Street
Euclid 19
Cleveland, Ohio

Claim No. IT-10,089

Decision No. IT-250

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

FINAL DECISION

The Commission issued its Proposed Decision on this claim on May 15, 1957, a certified copy of which was duly served upon the claimant. Full consideration having been given to the objections of the claimant, filed within the twenty-day period after such service which has now expired, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Washington 25, D. C.

JUL 11 1957

Whitney Gilliland
Henry S. Clay
COMMISSIONERS

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

In the Matter of the Claim of

LOUIS CHAMPA
370 East 200th Street
Euclid 19
Cleveland, Ohio

Claim No. IT-10,089

Decision No. IT-250

Under Section 304 of the International
Claims Settlement Act of 1949, as amended

PROPOSED DECISION

This is a claim for \$14,850.00 by Louis Champa, a citizen of the United States since his naturalization on May 26, 1955, and is for compensation for internment and personal injuries arising out of the war in which Italy was engaged from June 10, 1940 to September 15, 1947.

Section 304 of the aforesaid Act provides for the receipt and determination by the Commission, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Italy arising out of the war in which Italy was engaged from June 10, 1940 to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy.

Claimant alleges that he was interned by the authorities of the Italian Government in Ljubljana, Yugoslavia from February 22, 1942 until September, 1943, and as a result of such internment, suffered certain personal injuries. Moreover, the record discloses that he became a national of the United States on May 26, 1955.

Compensable claims under Public Law 285, Section 304, for internment and personal injuries sustained during the internment period, which arose out of the war in which the Government of Italy was engaged

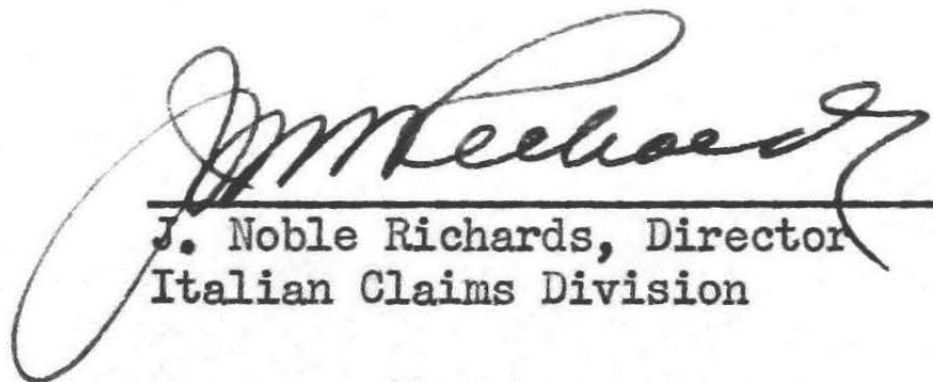
must clearly establish that the injured party was a national of the United States on the date of internment, at the time the injury or injuries were sustained, and at the time of settlement of the claim filed under the above section of the Act. The treatment received by the claimant at the hands of the interning government or its officials or authorities must have been in violation of the precepts of international law.

Since the claimant was not a national of the United States at the time of his internment and when the alleged personal injuries occurred, the claim must be and is hereby denied. Other elements bearing upon eligibility have not been considered.

Dated at Washington, D. C.

MAY 15 1957

FOR THE COMMISSION:


J. Noble Richards, Director
Italian Claims Division