

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

IN THE MATTER OF THE CLAIM OF

WISCONSIN PROVINCE OF THE
SOCIETY OF JESUS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1050

Decision No. CU-660

Counsel for claimant:

Truman McNulty, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision issued November 15, 1967 the Commission denied this claim for failure of proof. The decision was entered as final on January 4, 1968. Claimant thereafter submitted additional evidence. The matter having been considered, it is

ORDERED that the Final Decision be and it is hereby set aside and the Proposed Decision is hereby amended.

Claimant, WISCONSIN PROVINCE OF THE SOCIETY OF JESUS, which owned a bond issued by Cuba Northern Railway Company, and "Belen" bonds issued by the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decisions entitled the Claim of Kentucky Home Mutual Life Insurance Company (Claim No. CU-1339) and the Claim of Gustavius Basch (Claim No. CU-0972) which we incorporate herein by reference, we held that the properties of the Cuba Northern Railway were nationalized or otherwise taken by the Government of Cuba on October 13, 1960; and that the properties of the College were taken by the Government of Cuba on May 3, 1961, and that these types of claims are compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per \$1,000 Railway bond as \$682.56 including interest to October 13, 1960, and a \$1,000 Belen bond as \$459.17 including interest to May 3, 1961.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Kentucky and Basch decisions; that claimant is a non-stock, non-profit, charitable and educational corporation, incorporated in Wisconsin in 1954, and is a national of the United States within the meaning of Section 502(1)(B) of the Act; that it has been the owner of six bonds issued by Cuban Northern Railway Company since prior to October 13, 1960, and the owner of four bonds issued by the College; and that it suffered a loss in the amount of \$5,932.04 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from the respective dates of loss, to the date on which provisions are made for the settlement thereof. (See Kentucky and Basch, supra.)

CERTIFICATION OF LOSS

The Commission certifies that WISCONSIN PROVINCE OF THE SOCIETY OF JESUS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Thousand Nine Hundred Thirty-Two Dollars and Four Cents (\$5,932.04) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

JAN 14 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Order and Amended 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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Counsel for claimant:

Truman McNulty, 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 \$1,462.13, was presented by the WISCONSIN PROVINCE OF THE SOCIETY OF JESUS and is based upon the asserted loss of investments in bonds of the Religious Community of the Company of Jesus of Bethlehem College of Havana. Claimant stated that it is a non-stock, non-profit charitable and educational corporation, incorporated in Wisconsin in 1954.

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 claimant has failed to submit the necessary supporting evidence needed to substantiate its claim. By Commission letter of July 6, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence was received.

On August 15, 1967, counsel was invited to submit any evidence available to him within 45 days from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record.

On September 15, 1967, the claimant, by letter, requested an extension of time within which to file the necessary evidence.

By Commission letter of September 19, 1967, the extension was granted. The extension period expired on November 1, 1967, and to date no evidence has been submitted.

The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership by a national of the United States of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. 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

NOV 15 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

CLASSIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the Final
decision on JUL 14 1968

Marie Thacker
Clerk of the Commission

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).)

CU-1050