

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

IN THE MATTER OF THE CLAIM OF

GEORGE WARNKEN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1253

Decision No. CU 2082

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for an unspecified amount, was presented by GEORGE WARNKEN and is based upon an asserted loss sustained in connection with bonds issued by Cuba Railroad Company. Claimant has been a national of the United States since his 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.

On the basis of evidence of record, the Commission finds that claimant, GEORGE WARREN is, and since prior to October 13, 1960 has been the owner of twenty bonds in the original face amount of \$1,000.00 each, issued by Cuba Railroad Company, and of an issue known as "First Mortgage Gold Bonds, 4%, due June 30, 1970" issued under a Supplemental Indenture of July 1, 1952, with Guaranty Trust Company of New York as Trustee (formerly First Mortgage, 50 Year Gold Bonds issued September 18, 1902, 5%, due July 1, 1952, with the Morton Trust Company of New York as Trustee). The bonds in question are Nos. TRM 3921 to TRM 3924 inclusive, and Nos. M 55 to M 70, inclusive.

Pursuant to the Supplemental Indenture of July 1, 1952, the bonds are overstampd to set forth an outstanding principal balance of \$460.00 on each bond, and to provide on each bond total annual interest of \$18.40, or, 4% of the outstanding principal balance.

The Cuba Railroad Company, incorporated in the State of New Jersey, was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. This corporation was wholly-owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba) a Cuban corporation, and therefore does not qualify as a corporate "National of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. Therefore, claimant is entitled to file this claim based upon bonds which represent debts which were a charge upon nationalized property within the purview of Section 502(3) of the Act. (See Claim of Joseph Gans, Claim No. CU-1720.)

Information available to the Commission shows that the last payment of interest on the bonds was made on January 1, 1959, and that no part

of the outstanding principal balance was ever paid. The Commission therefore finds that the total amount of the unpaid indebtedness on claimant's bonds was \$9,857.20, including the principal amount of \$460.00 on each bond, and the interest due from January 1, 1959 to October 13, 1960 on each bond in the amount of \$32.86.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

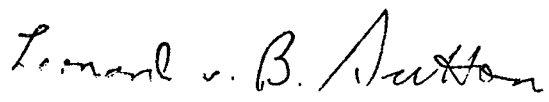
Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provision is made for the settlement thereof.


CERTIFICATION OF LOSS

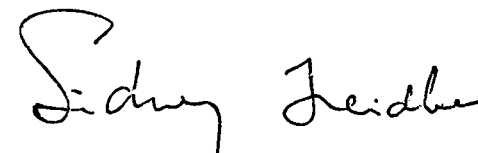
The Commission certifies that GEORGE WARNKEN suffered a loss, as a result of the actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nine Thousand Eight Hundred Fifty-Seven Dollars and Twenty Cents (\$9,857.20) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

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

JUL 24 1968


Leonard v. B. Sutton, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)

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 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 or the loss here certified.

CU-1253