

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

IN THE MATTER OF THE CLAIM OF

JOHN D. LYONS, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1673

Decision No. CU
1736

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 \$270.00, was presented by JOHN D. LYONS, Jr., and is based upon the asserted loss of one Republic of Cuba 4 1/2% External Debt Bond, due June 30, 1977.

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.

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).)

In support of this claim, claimant submitted for the record one

(1) Republic of Cuba bond, External Debt, 4 1/2%, June 30, 1977 in the face amount of \$1,000.00, with coupons No. 47 through No. 80 attached thereto; and a statement from Harris, Upham & Co., Inc. showing that claimant herein purchased said bond on March 27, 1967 for the amount of \$217.50.

By letter of January 18, 1968, the Commission suggested that claimant submit for the record evidence to establish that ownership of the bond that claimant purchased on March 27, 1967 was owned by a national of the United States on the date of loss (i.e. December 31, 1960; See Claim of Clemens R. Maise, Claim No. CU-3191), and continuously so owned thereafter until claimant purchased same. That communication suggested that claimant submit such evidence available to him within 45 days from January 18, 1968, and he was informed that, absent such

evidence, it might become necessary to determine the claim on the basis of the existing record. Claimant advised the Commission on March 28, 1968 that he was unable to obtain the evidence suggested by the Commission in its letter of January 18, 1968.

The Commission is aware of the difficulties which some claimants face in establishing their claims; this is not to say, however, that the Commission should make favorable determinations when such actions are not supported by the evidence of record.

The Commission finds that claimant has not met the burden of proof in that he 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; neither has he established that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of this claim.

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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

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

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