

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

IN THE MATTER OF THE CLAIM OF

DOMINICAN SISTERS
OF THE CONGREGATION OF
ST. CATHERINE DE RICCI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2910

Decision No. CU - 5976

Counsel for claimant:

John Justin McCarthy, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by DOMINICAN SISTERS OF THE CONGREGATION OF ST. CATHERINE DE RICCI in the amount of \$910,620.80 based upon the loss of land, buildings and personal property in Cuba.

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 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

Claimant has submitted a copy of the original certificate of incorporation issued by the Secretary of State of New York in 1882, as a charitable corporation, and evidence of its change of name thereafter. Of the members of the Congregation between 1960 and 1967, numbering 193, 176 were nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

On the basis of the record, including an affidavit of a former Cuban attorney, the Commission finds that claimant was the sole owner of a Cuban corporation known as the American Dominican Sisters, which held title to three academies for girls in Cuba, including realty, buildings and various personalty.

The record includes photocopies and translations of the various documents of purchase covering the three schools as follows:

- (1) Our Lady of the Rosary Academy,
148 O'Donnell Street
Cienfuegos, Las Villas, Cuba
- (2) Our Lady Help of Christians Academy
5th and D Streets
Vedado, Havana, Cuba
- (3) Our Lady Help of Christians Resident Academy
21425 - 23rd Avenue
Marianao, La Coranella, Havana, Cuba

The Commission further finds that these properties were intervened by the Government of Cuba on May 3, 1961 (See Claim of Gustavus Basch, Claim No. CU-0972), and were later nationalized pursuant to the Cuban Law on Education of June 6, 1961 (See Claim of Calvin R. Hemphill, Claim No. CU-1479).

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

In support of the asserted values, the record includes descriptions of the schools, photographs, lists of personalty, letters of Cuban officials concerning tax assessments, receipts for fire, cyclone, theft insurance as well as copies of report forms concerning the financial status of the schools as of January 1, 1960. These reports, prepared in the form of asset and liability statements, reflect no debts. The values cited for land, buildings and equipment support the present claim.

On the basis of the entire record, and considering evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds the asserted values fair and reasonable and finds the following values of the properties described below:

1. Our Lady of the Rosary Academy: a 2-story brick building with yards and appurtenant buildings, equipped as a school for approximately 500 girls, and residence for 60 students and 8 sisters:

Land	\$ 24,000.00	
Buildings	82,607.00	
Vehicles and Equipment	<u>18,362.50</u>	\$124,969.50

2. Our Lady Help of Christians Academy: a 2-story brick school building with patio and a 2-story apartment house building equipped as a school for approximately

700 girls, and residence for 12 sisters and 5 employees:

Land	\$185,828.00	
Buildings	174,823.30	
Vehicles and equipment	<u>23,500.00</u>	\$384,151.30

3. Our Lady Help of Christians Resident Academy:
a country estate of approximately 33 acres with a 2-story
stone and stucco house, a school building and appurtenant
buildings, equipped as a school for 300 girls, and
residence for 60 students and 6 sisters, as well as
9 employees:

Land	\$135,000.00	
Buildings	250,000.00	
Vehicles and equipment	<u>16,500.00</u>	<u>\$401,500.00</u>
		\$910,620.80

Accordingly, the Commission concludes that claimant suffered a loss
in the amount of \$910,620.80 within the meaning of Title V of the Act, as
the result of the intervention of its property by the Government of Cuba
on May 3, 1961.


The Commission has decided that in certifications of loss 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) and in the instant case it is so ordered.

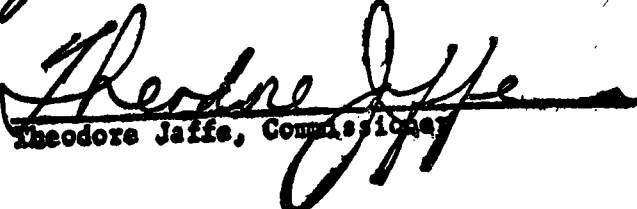
CERTIFICATION OF LOSS

The Commission certifies that DOMINICAN SISTERS OF THE CONGREGATION OF ST. CATHERINE DE RICCI 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 Nine Hundred Ten Thousand Six Hundred Twenty Dollars and Eighty Cents (\$910,620.80) with interest at 6% per annum from May 3, 1961 to the date of settlement.

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

NOV 23 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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 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).)