

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

IN THE MATTER OF THE CLAIM OF

THE ASSOCIATED PRESS
AND
ROBERT BERRELLEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2922

Decision No. CU

2407

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 THE ASSOCIATED PRESS, in the amount of \$350.00, on April 12, 1967, as assignee by purchase; and by ROBERT BERRELLEZ in the amount of \$292.00 both based upon the loss of certain 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.

An officer of the claimant corporation has certified that it is a non-profit cooperative membership organization, organized under the laws of the State of New York, and issues no capital stock; and that more than 50% of the membership are citizens of the United States. The Commission holds that THE ASSOCIATED PRESS is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record reflects that ROBERT BERRELLEZ, a national of the United States by birth, was employed by claimant in Cuba. During the period of his detention from April 17 to May 12, 1961 various items of his personal property were taken by the Government of Cuba, consisting of personal effects located in his apartment; items taken from his person and personalty at his office.

The Commission finds that ROBERT BERRELLEZ was the owner of certain personal property in Havana, which was taken by the Government of Cuba, and that in the absence of evidence to the contrary, the loss occurred on May 1, 1961. Accordingly it is concluded that ROBERT BERRELLEZ suffered a loss within the meaning of Title V of the Act as a result of the taking of his property by the Government of Cuba.

The record contains an itemized list of this personalty including original cost and value as of May, 1961. The list totals \$282.00. The Commission has carefully examined this list and concludes that \$282.00 is the fair value of the property. Accordingly the Commission concludes that ROBERT BERRELLEZ suffered a loss in that amount when his property was taken by agents of the Government of Cuba.

It further appears from the record that certain clothing and an overnight case were the property of ROBERT BERRELLEZ and were left in a private depository, except for one item which was taken by an agent of the Cuban Government. All of this property is described and valued by ROBERT BERRELLEZ at \$350.00.

Prior to the filing of this claim, ROBERT BERRELLEZ, in consideration of the sum of \$350.00 paid him by THE ASSOCIATED PRESS, assigned his "claim" against the Government of Cuba to claimant. Nevertheless the Commission is constrained to hold that the property left in a private depository has not been taken by the Government of Cuba. Accordingly so much of the claim of THE ASSOCIATED PRESS as is based on such property is denied. In the absence of evidence to the contrary the Commission finds that one item was taken by the Government of Cuba on May 1, 1961. The Commission finds, however, that the ASSOCIATED PRESS has succeeded to so much of the claim as concerns the item taken by the Government of Cuba. The Commission has considered the description furnished, and other evidence available to the Commission and concludes that \$20.00 is the fair value of the item taken, and that THE ASSOCIATED PRESS has succeeded to a loss in this amount.

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 loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from May 1, 1961, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ROBERT BERRELLEZ 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 Two Hundred Eighty-Two Dollars (\$282.00) with interest thereon at 6% per annum from May 1, 1961 to the date of settlement; and

the Commission certifies that THE ASSOCIATED PRESS succeeded to and 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 Twenty Dollars (\$20.00) with interest thereon at 6% per annum from May 1, 1961 to the date of settlement.

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

JUL 31 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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).)

CU-2922

NOTICE TO TREASURY: Claimant Associated Press may be the subject of a certification of loss in CU-2921.

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.