

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

**IN THE MATTER OF THE CLAIM OF**

PRISCILLA B. HINES  
AS EXECUTRIX OF THE ESTATE OF  
MARION W. ATWOOD, DECEASED

**Claim No. CU - 4987**

**Decision No. CU 1797**

**Under the International Claims Settlement  
Act of 1949, as amended**

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 PRISCILLA B. HINES, AS EXECUTRIX OF THE ESTATE OF MARION W. ATWOOD, DECEASED, and is based upon the loss of interests in bonds issued by the Cuba Northern Railways Company.

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.

The record herein includes a certified copy of the Last Will and Testament of the late Marion W. Atwood; a certified copy of the Letters Testamentary issued on her Estate; and records establishing the United States birth of the decedent and her heirs.

On the basis of evidence of record, the Commission finds that Marion W. Atwood, now deceased, was, and since prior to October 13, 1960, had been the owner of five bonds in the original face amount of \$1,000.00 each, issued by the Cuba Northern Railways Company and known as "First Mortgage Gold Bonds, 4%, due on June 30, 1970", (originally First Mortgage Gold Bonds, 5-1/2%, due June 1, 1942) issued under an Indenture of July 1, 1927, with the First National City Bank of New York as Trustee. The bonds in question are Nos. TRM 3853 through TRM 3857, inclusive.

The record discloses that the late Marion W. Atwood, a national of the United States by birth, died testate, and PRISCILLA B. HINES was appointed Executrix of her Estate. The beneficiaries as to the subject matter of this claim are Robert Clapp, as to a one-half interest, and Joan Horwath and PRISCILLA B. HINES, as to a one-fourth interest each. The record further discloses that said beneficiaries are nationals of the United States by birth.

The Cuba Railroad Company, incorporated in the State of New Jersey, was wholly owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation. The Cuba Railroad Company thus would not qualify as a national of the United States under Section 502(1) of the Act which defines the term "national of the United States" as including "(B) 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."

Consolidated Railroads of Cuba also owned Cuba Northern Railways Company (Ferrocarriles Del Norte De Cuba), a Cuban corporation. The latter in turn owned the majority interest in Guantanamo and Western Railroad Company (Cia. Ferrocarrilera de Guantanamy y Occidente), incorporated in the State of Maine. Thus, none of these railroads qualify as a national of the United States under Section 502(1) of the Act.

The record reflects that on April 4, 1933, Cuba declared a moratorium on mortgage indebtedness, which later extended to June 1942. On June 4, 1940 a new Cuban Constitution was adopted, having certain "Transitory Provisions" which extended the maturity date on mortgage indebtedness in excess of \$800,000.00 to June 30, 1970 and provided for interest at 1% and amortization by certain annual installments.

In 1952, pursuant to a "Plan for Readjustment of Bonded Debt of the Company" bondholders surrendered their 5-1/2% Gold Bonds and received, in exchange, First Mortgage Gold Bonds, 4%, due June 30, 1970. The interest on these bonds was payable on June 1 and December 1 of each year. The last payment of interest on these bonds was made on December 1, 1958.

The record shows that Cuba Northern Railways Company was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. The decedent's bonds, therefore, represented the debt of a nationalized enterprise as defined in Section 502(3) of the Act (supra).

The Commission concludes that as a result of the nationalization of the properties of the Cuba Northern Railways Company, the decedent suffered a loss in connection with her bonds, within the meaning of Title V of the Act. (See Claim of Kentucky Home Mutual Life Insurance Company, Claim No. CU-1339.)

Evidence of record establishes that each of the subject bonds had an outstanding principal balance of \$635.00 on October 13, 1960, the date of loss.

The Commission therefore finds that the total amount of the unpaid indebtedness on the decedent's bonds on October 13, 1960, the date of loss, was \$3,412.80, including the principal amounts of \$635.00 on each bond, and the interest due on each of the five bonds in the amount of \$47.56 for the period December 1, 1958 to October 13, 1960.

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 shall be increased by interest thereon at the rate of 6% per annum from May 3, 1961, the date of loss, to the date on which provisions are made for settlement thereof.

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CERTIFICATION OF LOSS

The Commission certifies that PRISCILLA B. HINES, AS EXECUTRIX OF THE ESTATE OF MARION W. ATWOOD, DECEASED, 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 Three Thousand Four Hundred Twelve Dollars and Eighty Cents (\$3,412.80) 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

MAY 1 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Cha'rman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

NOTICE TO THE TREASURY DEPARTMENT: The above listed bonds may have been returned to claimant and no payment should be made until they are resubmitted.

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).)