

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

The CHASE MANHATTAN BANK
Trustee w/a/w MARGARET SOUTER VON LUTTICHAU
18 Pine Street
New York, New York

Claim No. HUNG-21,792

Decision No. HUNG-533

Under the International Claims Settlement
Act of 1949, as amended

WFO 16-70120-1

PROPOSED DECISION

This is a claim under Section 303(3) of the International Claims Settlement Act of 1949, as amended, against the Government of Hungary, for the failure of that government to meet its contractual obligations.

The record discloses that in 1926 Margaret S. Von Luttichau executed an agreement under which certain bonds, which form the basis of the claim made herein, were placed in trust for her benefit. Mrs. Von Luttichau was born in the United States on February 24, 1880. On June 11, 1901 in Germany, she married a German subject who died in 1909. Subsequently in 1913 she married her present husband, also a German subject.

According to the records of the Passport Division, Department of State, Mrs. Von Luttichau was permitted by the United States Vice Consul at Bremen, Germany, on April 8, 1948, to take an oath of allegiance. She was refused registration as a citizen of the United States but issuance of a passport for travel only to the United States was authorized.

Section 303(3) of the Act provides, among other things, for the determination of claims of nationals of the United States against the Government of Hungary based upon the failure to meet certain obligations arising out of contractual or other rights acquired by nationals of the United States prior to September 1, 1939, and which became payable prior to September 15, 1947.

The Commission has consistently held that the national character of a claim filed by a trustee must be tested by the nationality of the persons

holding beneficial interests therein rather than by the nationality of trustees, or record holders of the claim. ^{1/} Accordingly, the status of Mrs. Von Luttichau, the beneficiary of the trust herein, as a national of the United States must be established, and it must be shown that she had such status prior to September 1, 1939, in order for the claim to be compensable under Section 303(3) of the Act.

Claimant contends that while Mrs. Von Luttichau lost her United States nationality in 1901 upon marriage to an alien, she reacquired citizenship of the United States retroactively under the Act of June 25, 1936 upon taking the oath of allegiance in 1948.

In view of her second marriage in 1913, also to an alien, at a time when the Act of March 2, 1907 (34 Stat. 1228) was in effect, ^{2/} it is clear that Mrs. Von Luttichau had lost her United States nationality, by reason of one or the other of her two marriages, prior to September 22, 1922. The Act of September 22, 1922 (42 Stat. 1021) provided, among other things, that a female citizen of the United States would not thereafter lose her citizenship solely by reason of marriage to an alien.

Under the Act of June 25, 1936 (49 Stat. 1917), a female native born American citizen who had lost her citizenship by marriage to an alien prior to September 22, 1922, and whose marital status with such alien had terminated, was deemed to be a citizen of the United States as if her marriage had taken place after September 22, 1922, provided she had duly taken the oath of allegiance.

The courts have held that the Act of 1936 was repealed by the enactment of the Nationality Act of 1940 (54 Stat. 1137), effective January 13, 1941. ^{3/} This latter enactment provided that a woman who has lost her citizenship by a marriage to an alien could, if no other nationality was acquired by affirmative act other than the marriage, become a citizen of the United States "from and after" the taking of an oath of allegiance under the Act of 1940, provided her marital status with such alien had terminated.

^{1/} Mixed Claims Commission, United States and Germany, Decisions and Opinions at p. 164; Claim of Edwin A. Binder, Docket Y-1036 (Dec. No. 1535) (1954); Claim of American Security and Trust Company, Claim HUNG-20,540 (Dec. HUNG-51) (1957)

^{2/} Petition of Dattilio, 66 F. Supp. 912 (1946)

^{3/} In re Sheo Hui Chong Yuan's Restriction, 73 F. Supp. 12 (1944)
Application of Euen Loo Wong, 73 F. Supp. 16 (1947)

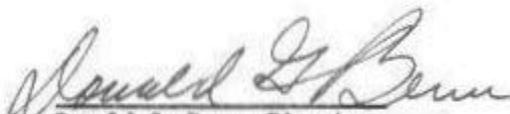
It is clear that the taking of the oath of allegiance in 1948 did not confer any rights upon Mrs. Von Luttichau under the Act of 1936 for that Act had been repealed. Furthermore, the taking of the oath did not confer United States citizenship upon Mrs. Von Luttichau under the Act of 1940 since her second marriage to an alien prior to September 22, 1922 had not terminated. Prior to that date, she had acquired and remained in the status of a nonnational of the United States.^{4/}

Inasmuch as Section 303(3) of the Act requires, among other things a showing that the contractual rights, or the bonds as in this case, were acquired by a national of the United States prior to September 1, 1939, this claim must be and is hereby denied. The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, D. C.

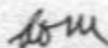
JUL 31 1957

FOR THE COMMISSION:


Donald G. Benn, Director
Balkan Claims Division

DGB





^{4/} North German Lloyd v. Eiting, 86 F. 2d 93 (1936); certiorari denied, 300 U. S. 675, 57 S. Ct. 668, 81 L. Ed. 881 (1937).

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app 10-2120-1
Counsel for MARGARET SCOTT OF LUTTICHAN:

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701 Union Trust Building
Washington 5, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on July 31, 1957, a certified copy of which was duly served upon the claimant. Full consideration having been given to the objections and the evidence and arguments presented at a hearing held on September 26, 1957, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Dated at Washington 25, D. C.

OCT 24 1957

Whitney Gilliland
Henry S. Clay
COMMISSIONERS