

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

IN THE MATTER OF THE CLAIM OF

OSCAR B. FLANNAGAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2427

Decision No. CU 210

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 OSCAR B. FLANNAGAN for \$53,160.00, based upon the asserted loss of real and personal property, consisting of improved real property, house furnishings and personal effects located at Havana, Cuba. Claimant, OSCAR B. FLANNAGAN, submitted evidence to establish that he was born in Virginia in 1897; that the American Embassy in Havana, Cuba, issued a "Certificate of the Loss of the Nationality of the United States" to claimant on May 8, 1946, when he became a naturalized Cuban citizen; and that claimant has now filed his "Declaration of Intention" to again become a citizen of the United States but is presently not a national of the United States.

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 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States". The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) 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 claim with the Commission. (See the Claim of Joseph Dallos Hollo, Claim No. CU-0101).

Under the provisions of Section 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimant herein establish that he owned property which was nationalized or otherwise taken by the Government of Cuba, but he must also establish that some measure depriving him of his interest therein was applied by the Government of Cuba not only after January 1, 1959, but subsequent to the date he acquired citizenship of the United States. Claimant has indicated that when the property was taken in October 1960 he was a

national of Cuba; and that he had not acquired nationality of the United States when his claim was filed. Accordingly, the claim herein, filed under the aforesaid provisions of the Act, cannot be compensable thereunder.

For the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is hereby denied. The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

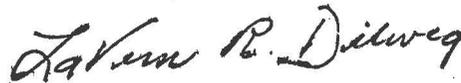
AUG 23 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



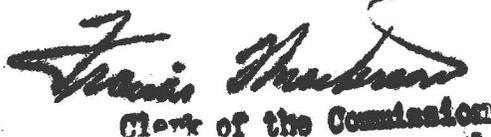
LaVern R. Dilweg, Commissioner

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(3) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CERTIFICATION

This is a true and correct copy of the decision
of the Commission as entered as the final
decision on 25 SEP 1967

CU-2427



Clerk of the Commission