

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

IN THE MATTER OF THE CLAIM OF

MAX HIRSCH

Claim No. CZ-2-0453

Decision No. CZ-2-0459

PROPOSED DECISION

This claim in the amount of \$5,000.00 to \$7,000.00 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) is based upon the asserted loss of bonds deposited in the Bohemian Union Bank in Olomouc.

Claimant became a United States citizen by naturalization on January 31, 1945.

Under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981, the Commission is given the following jurisdiction:

"The Commission shall receive and determine, in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of the Czechoslovak Socialist Republic for losses resulting from the nationalization or other taking of property owned at the time by nationals of the United States, which nationalization or other taking occurred between August 8, 1958, and [February 2, 1982]."

Accordingly, under the law the Commission can grant awards only for property which was taken after August 8, 1958.

Claimant states as the basis of this claim that he was the owner of certain bonds on deposit in the Bohemian Union Bank in Olomouc, having inherited them from his uncle during the 1930's. As supporting documentation, he has submitted, among other things, a copy of the "Declaration" which he filed at the Czechoslovak Consulate in New York in April 1946 to register his ownership of the bonds with the Czechoslovakian Government.

An examination of the English translation of claimant's 1946 Declaration document discloses that the bonds for which he is claiming consisted of four "Serbian Tobacco Bonds," seven "Red Cross Bonds," and a "Serbian Premium Bond." The Commission notes, however, that Serbia is a part of Yugoslavia, and there is no indication as to the country of origin of the bonds issued by the Red Cross. Nor is there any indication in the record that any of these bond issues were secured by property located in Czechoslovakia, or were guaranteed by the Czechoslovakian Government.

In order for a claim involving a bond or other debt obligation to be valid under the claims statute, there must be evidence or information showing either that the Czechoslovakian Government nationalized the property by which the obligation was secured; that it repudiated or cancelled a duty which it had assumed to pay the debt represented by the bond; or that it confiscated and redeemed the bond instruments for its own benefit. In addition, the Government's action must be shown to have occurred after August 8, 1958. In the present claim, there is no evidence or information upon which the Commission could find that these requirements have been met as to any of the bonds in question.

In a letter from the Commission's staff dated January 3, 1983, claimant was advised that his claim did not appear eligible for an award under present law, and he was requested to submit any additional evidence or information he wished the Commissioners to consider in connection with his claim within 30 days. To date, however, no further communications have been received from the claimant.

Subsection 531.6 of the Commission's regulations provides:

"The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim."

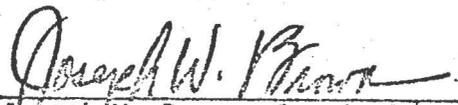
The Commission concludes that the burden of proof has not been met in this claim, in that the evidence of record is insufficient to support a finding that any of the bonds on which the claim is based were lost through action constituting a nationalization or

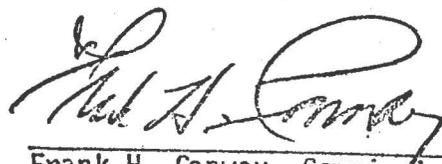
other taking by the Czechoslovakian Government after August 8, 1958, as required under the present Act. Accordingly, this claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations with respect to other aspects of this claim.

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

SEP 22 1983


Joseph W. Brown, Commissioner


Frank H. Conway, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision.

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.)

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