

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

IN THE MATTER OF THE CLAIM OF

COUNCIL BLUFFS SAVINGS BANK, TRUSTEE, FOR THE
ESTATE OF GRENVILLE M. DODGE, DECEASED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1290

Decision No. CU 1143

Counsel for claimant:

Ross, Johnson, Stuart,
Tinley & Peters

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 COUNCIL BLUFFS SAVINGS BANK, as TRUSTEE, for the ESTATE OF GRENVILLE M. DODGE, DECEASED, in the amount of \$40,000.00, based upon the asserted loss of 38 caballerias of land situated in the Barrio Jatibonico, Province of Camaguey, Cuba. The beneficiaries of the Estate of Grenville M. Dodge, Deceased, have all been nationals of the United States since birth.

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.

Based upon a copy of a decree of the Court of Constitutional and Social Rights, entered November 24, 1960, on appeal from a decree issued on June 21, 1960, by the Justice of the Court of First Instance of Ciego de Avila, the Commission finds that the heirs of Grenville M. Dodge, Deceased, owned certain land in the province of Camaguey, Cuba. Other evidence of record establishes that this consisted of thirty-eight caballerias of land in the Barrio Jatibonico, and was known as "Finca Rollete." The aforesaid decree of June 21, 1960 decreed expropriation of the estate by right of eminent domain, to become the property of the National Institute of Agrarian Reform, for disposal by the said Institute under the Act of Agrarian Reform; and further provided for indemnity to be paid in cash in Agrarian Reform Bonds or by a certificate thereof by the Institute to the heirs.

The Agrarian Reform Law of May 17, 1959, published in the Cuban Official Gazette on June 3, 1959, established the National Agrarian Reform Institute and provided for the expropriation of rural properties and distribution among peasants and agricultural workers. The Fifth Transitory Provision provided that until regulations for the Law were promulgated, it should be applied through resolutions of the National Agrarian Reform Institute. The regulations for carrying out the expropriation of such rural property were contained in Law 588, published in the Official Gazette (No. 191) on October 9, 1959.

Article 31 of the Agrarian Reform Law provided that indemnity should be paid in redeemable bonds; and set out that to that end an issue of Republic of Cuba bonds should be floated in such amount, and under such terms and conditions, as might be fixed in due time, the bonds to be called "Agrarian Reform Bonds" and to be considered public securities. Claimant avers that no compensation of any kind has been received in respect to the expropriation of said real estate and that there are no credits or off-sets to this claim. The Commission finds that the thirty-eight caballerias of land belonging to the Estate of Grenville M. Dodge, Deceased, were taken by the Government of Cuba on June 21, 1960, pursuant to the provisions of the Agrarian Reform Law.

The record contains an affidavit of Laverne Tollinger setting out his lengthy association with the Trustee, his familiarity with the property of the Estate, and stating that it was under the active management of Compania Cubana, a sugar mill operation; and two affidavits of H. J. Schreiber, former Manager of the Ingenio Jatibonico of Compania Cubana, in Jatibonico, in which he states that the Compania Cubana leased the land to various tenants on behalf of the Grenville M. Dodge Trust Estate, and purchased the sugar cane grown thereon, remitting the net proceeds to the Trustees. Further, Mr. Schreiber states that the asserted value of \$40,000 is based on an approximate net annual income derived from the rent after taxes, and represents a return of 5 per cent, and that while the rental varied from year to year, it would not be less than \$2,000.00. On the basis of the entire record, including these affidavits, the Commission finds that at the time of loss, the aggregate value of the 38 caballerias of land was \$40,000.00, and concludes that claimant suffered a loss in that amount, within the meaning of Title V of the Act.

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.

Accordingly, the Commission concludes that the amount of the loss sustained by claimant as trustee shall be increased by interest thereon at the rate of 6% per annum from the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

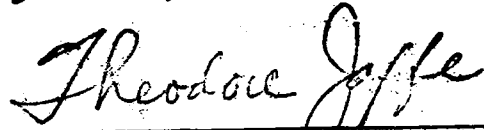
The Commission certifies that the COUNCIL BLUFFS SAVINGS BANK, as TRUSTEE of the ESTATE OF GRENVILLE M. DODGE, DECEASED, suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty Thousand Dollars (\$40,000.00) with interest thereon at the rate of 6% per annum from June 21, 1960, to the date of settlement.

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

FEB 7 1968



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision on MAR 13 1968



Clerk of the Commission

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).)