

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

IN THE MATTER OF THE CLAIM OF

ROBERT G. WILBUR
GUY R. WILBUR

Claim No. CU-2005

Decision No. CU-2002

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

On June 19, 1968 the Commission issued its Proposed Decision in this matter certifying that SECURITY FIRST NATIONAL BANK and ROBERT G. WILBUR, TRUSTEES U/W GEORGE R. WILBUR, DECEASED, had succeeded to and suffered a loss in the amount of \$682.56 with interest at 6% per annum from October 13, 1960 to the date of settlement.

Documentation has been submitted reflecting that the trusts have been terminated, the said Trustees have been discharged, and the assets distributed to ROBERT G. WILBUR and GUY R. WILBUR who are substituted as claimants in this matter.

Accordingly, the Certification of Loss as restated below will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that ROBERT G. WILBUR, 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 Hundred Forty-one Dollars and Twenty-eight Cents (\$341.28) with interest at 6% per annum from October 13, 1960 to the date of settlement; and

the Commission certifies that GUY R. WILBUR, 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 Hundred Forty-one Dollars and Twenty-eight Cents (\$341.28) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

SEP 11 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities for the loss here certified.

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 Amended 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).)

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

IN THE MATTER OF THE CLAIM OF

SECURITY FIRST NATIONAL BANK AND
ROBERT G. WILBUR, TRUSTEES U/W
GEORGE R. WILBUR, DECEASED

Claim No. CU-2005

Decision No. CU 2002

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Baird B. Coffin, Esq.

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 SECURITY FIRST NATIONAL AND ROBERT G. WILBUR, TRUSTEES U/W GEORGE R. WILBUR, DECEASED, and is based upon the asserted ownership and loss of interests in bonds issued by the Cuba Railroad Company. Decedent had been a national of the United States from his birth until his death on April 3, 1963.

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.

On the basis of evidence of record, the Commission finds that decedent, George R. Wilbur was, and since prior to October 13, 1960, had been the owner of a bond, in the original face amount of \$1,000.00, issued by the Cuba Railroad Company, and known as "First Lien and Refunding Bond, Series A, 4%, due June 30, 1970" issued under an Indenture of March 10, 1922 and a Supplemental Indenture dated July 1, 1952, with the First National City Bank of New York as Successor Trustee. The bond in question is numbered M 2027.

The record reflects that George R. Wilbur died testate on April 3, 1963 and the claimed property was bequeathed to the claimants as trustee. The beneficiaries of the trust have been nationals of the United States since birth.

The Cuba Railroad Company, by Indenture dated March 10, 1922, and Supplemental Indentures dated June 2, 1926 and July 1, 1952, issued Dollar bonds secured by mortgage upon the real property of the Company. By the Supplemental Indenture of July 1, 1952, the bonds were re-issued as 4% bonds, due June 30, 1970. As of 1952, the outstanding principal balance on each \$1,000.00 bond was \$635.00, with interest at 4% per annum to be paid on the principal balance.

The record discloses that Cuba Railroad Company was owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba). It was listed as nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. Consolidated Railroads of Cuba was organized under the laws of Cuba and does not qualify as a corporate

"National of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. Moreover, although Cuba Railroads was organized in New Jersey, it is wholly owned by Consolidated Railroads and does not qualify as a national of the United States under Section 502(1)(B) (supra). (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105; 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

Therefore, claimant is entitled to file this claim based upon the bond in question which represents a debt of a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Albert I. Harris, Claim No. CU-2398.)

The Commission finds that the total amount of the unpaid indebtedness on the bond of the decedent was \$682.56, including the principal amount of \$635.00 and the interest from December 1, 1959, the last date on which interest was paid, through October 13, 1960, in the amount of \$47.56.

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 amounts of loss sustained by the decedent shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SECURITY FIRST NATIONAL BANK AND ROBERT G. WILBUR, TRUSTEES U/W GEORGE R. WILBUR, 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 Six Hundred Eighty-Two Dollars and Fifty-Six Cents (\$682.56) with interest 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

JUN 19 1963

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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