

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

IN THE MATTER OF THE CLAIM OF

THE NATIONAL BANK OF COMMERCE IN NEW ORLEANS
AS TRUSTEE UNDER WILL OF EDMOND L. MERILH,
FOR THE BENEFIT OF MARIETTA PAULA MERILH

Claim No. CU-2185

Decision No. CU 1741

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Philip Gensler, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,347.09, was presented by THE NATIONAL BANK OF COMMERCE IN NEW ORLEANS AS TRUSTEE UNDER WILL OF EDMOND L. MERILH FOR THE BENEFIT OF MARIETTA PAULA MERILH and is based upon an asserted interest in three bonds issued by the Association of the Religious Community of The Company of Jesus of Bethlehem College in Havana, Cuba. The late Edmond L. Merilh is stated to have been a United States national on April 4, 1964, the asserted date of his death. Marietta Paula Merilh states that she has been a United States national since her birth.

Under Title V of the International Claim 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) 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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FISC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts a loss based upon three (3) bonds issued by the Association of the Religious Community of The Company of Jesus of Bethlehem College of Havana. Claimant asserts further that said bonds are numbered M-371, M-391 and M-1319; and that \$1,347.09 is the balance due on said bonds as evidenced by Deposit Receipts No. M-1138, M-1139 and M-1140. By Commission letter of August 14, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act, including the original bonds.

Thereafter, by letter of September 15, 1967, counsel was invited to submit the evidence within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record.

Although counsel has since corresponded with the Commission, no evidence has been submitted.

The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership by a national or nationals of the United States, of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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