FOREIGN CLAIMS SETTLEMENT COMMISSION

OF THE UNITED STATES

Washington 25, D. C.

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| In the Matter of the Claim of<br><br>IGNATIUS A. PIETRZAK<br>Route #3, Box 126<br>Stanley, Wisconsin<br><br>Under the Polish Claims Agreement of 1960 and the International Claims Settlement Act of 1949, as amended | Claim No. PO-1004<br><br>Decision No. PO- 1 |

PROPOSED DECISION OF THE COMMISSION

This claim is based upon the asserted ownership by the claimant, IGNATIUS A. PIETRZAK, of a Republic of Poland Twenty Year 6% U. S. Dollar Gold Bond of 1920, in the face amount of $50.00, issued in the United States and now in default as to both principal and interest.

Under Section 4(a) of Title I of the International Claims Settlement Act of 1949, as amended, the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Polish Claims Agreement of 1960, Article 2 of which provides:

> Claims to which reference is made in Article 1 and which are settled and discharged by this Agreement are claims of nationals of the United States for
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> (a) the nationalization or other taking by Poland of property and of rights and interests in and with respect to property;
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> (b) the appropriation or the loss of use or enjoyment of property under Polish laws, decrees or other measures limiting or restricting rights and interests in and with respect to property . . .; and
>
> (c) debts owed by enterprises which have been nationalized or taken by Poland and debts which were a charge upon property which has been nationalized, appropriated or otherwise taken by Poland.

If an award is to be made on a claim filed under the Agreement, the Commission must find that the claim is of such nature as to come within the purview of the above-quoted Article.

In the instant claim, it is not alleged that the claimant's bond has been taken from him or repudiated by the Government of Poland. Such bonds have not, in fact, been confiscated or annulled by the Polish Government, which continues to recognize the existence of its obligation. The claimant's grievance is the non-fulfillment by the Government of Poland of the contractual obligation expressed in the bond.

Mere nonpayment of an obligation of this nature does not constitute a nationalization or other taking of property. The purchase of a bond gives rise to a debtor-creditor relationship between the issuer of the bond and the purchaser. The money with which a bond is purchased is no longer the property of the purchaser. In exchange therefor, he receives a right to payment as expressed in the terms of the bond obligation. Nonpayment of the obligation cannot be regarded as a taking of the purchase money, which was voluntarily given in the first instance. While the bond itself may be regarded as property, it has not been taken from the claimant. Although it may be argued that the right to payment is a form of property, the claimant's property in this sense has not been taken from him in the absence of a repudiation or cancellation of the obligation by the Government of Poland. Such has not occurred.

Applying the language of Article 2 of the Agreement to this factual situation, it is found that mere nonpayment of the obligation expressed in the bond does not constitute a nationalization or other taking by the Government of Poland of property or of rights and interests in and with respect to property, or the appropriation or the loss of use or enjoyment of property under Polish laws, decrees or other measures limiting or restricting rights and interests in and with respect to property. The debt which is represented by the bond is one of the Government of Poland itself, and not a debt owed by a nationalized enterprise; nor is it a debt which was a charge upon nationalized property. Accordingly, by the standards expressed in Article 2 of the Polish Claims Agreement of 1960, a claim based upon nonpayment of a dollar bond issued by or guaranteed by the Government of Poland is not one settled and discharged by the Agreement.

Any possible question as to whether such bonds were intended by the drafters to be covered by the Agreement was removed by an exchange of letters between the two governments on the date of signing the Agreement. In this exchange, the Polish Minister Plenipotentiary wrote, "In connection with the interest expressed by the Government of the United States of America in the settlement of outstanding dollar bonds, issued or guaranteed by the Polish Government in the United States during the period 1919 to 1939, I have the honor to inform you that the Polish Government confirms its intention to settle the problem of this bonded indebtedness by direct talks with American bondholders or their representatives." Since the settlement of these dollar bond claims was reserved as the subject of future talks, the bond claims obviously were not among those "settled and discharged" by the Agreement.

Inasmuch as nonpayment of dollar bonds issued or guaranteed by the Government of Poland does not give rise to a compensable claim under the Polish Claims Agreement of 1960, this claim, being based solely upon ownership of such a bond, is hereby denied.

Dated at Washington, D. C.

FEB 27 1961

BY DIRECTION OF THE COMMISSION

Francis T. Masterson
Clerk