FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

DOMINICK W. PRZYBYLINSKI

Claim No. PO-1358

Decision No. 069

Under the Polish Claims Agreement of 1960 and the International Claims Settlement Act of 1949, as amended

PROPOSED DECISION

This claim is based upon the asserted ownership and loss by claimant of certain personal property located in Lubicz, Poland including farming equipment, produce, animals, furniture, money and personal effects, in the total amount of $125,134.00. Claimant has asserted that military forces of Germany and officials of the German Occupation Government in Poland confiscated that property during 1939-1940, and that neither restoration nor compensation has been made therefor.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended, (64 Stat. 13 (1950), 22 U.S.C. §§ 1623(a) (1958)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Polish Claims Agreement of 1960 (Agreement with the Government of the Polish People's Republic Regarding Claims of Nationals of the United States, July 16, 1960, 11 U.S.T. & O.I.A. 1953, T.I.A.S. No. 4545 [1960]). That agreement provides as follows:

> 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
>
> (a) the nationalization or other taking by Poland of property and of rights and interests in and with respect to property;

(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 (Polish Claims Agreement of 1960, supra, Article II (Emphasis added.)).

In connection with the loss of personalty, as described above, claimant has submitted information and evidence including affidavits, correspondence, receipts and sales contracts. This evidence tends to substantiate the fact that his property was confiscated by German military forces and occupation authorities during 1939 and 1940. Among the documents is claimant's affidavit, dated July 16, 1941, originally submitted to the United States Department of State, which states, in part, as follows:

> ... that while residing in Poland he was engaged in farming and business, that after the occupation of Poland by Germany his merchandise as well as all of his personal belongings and personal property was confiscated at different intervals until he was completely dispossessed. . . .

On the basis of the record herein, claimant has not established that his personal property was nationalized or otherwise taken by the Government of Poland. On the contrary, all of the evidence proves the losses to have been sustained through incidents of war initiated by the military and occupation forces of Germany. This is confirmed again by claimant in his letter to the Commission dated July 2, 1962, wherein he states:

> In my previous affidavit dated since 1941 . . . and in following years I always pointed that Invasion Forces of Germany and Occupation Government of Germany took my personal property.

Article 2 of the Polish Claims Agreement of 1960 provides for the payment of compensation for property which was nationalized

or otherwise taken by the Government of Poland. The Agreement does not settle or discharge claims based upon the damage, destruction, or taking of property by forces occupying Poland during World War II.

Inasmuch as this claim is based entirely upon such wartime losses, and no taking of the claimant's property by the Government of Poland is alleged or established, the Commission concludes that this claim is not one within the scope of the Polish Claims Agreement of 1960. Accordingly, the claim is hereby denied.

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

DEC 10 1962

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed upon the expiration of 60 days after service or receipt of notice of this Proposed Decision, and unless the Commission otherwise orders, this Proposed Decision will be entered as the Final Decision of the Commission. (FCSC Reg., 45 C.F.R. § 531.5(g)(1961)).