

**THE PHILIP C. JESSUP INTERNATIONAL LAW MOOT
COURT COMPETITION**

1960

**The Cuban Agrarian Reform
Case, United States v.
Cuba, 1960.**

Problem

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

1960

THE CUBAN AGRARIAN
REFORM CASE

LETTER OF THE AMBASSADOR OF THE UNITED STATES OF AMERICA AT
THE HAGUE TO THE REGISTRAR OF THE COURT

Embassy of the United States of America,
The Hague

March 16, 1960

Sir:

I have the honour, upon instructions of the Secretary of State of the United States of America, to transmit to you, with reference to paragraph 1 of Article 40 of the Statute of the Court, the attached certified copy of a Special Agreement between the Government of the Republic of Cuba and the Government of the United States of America, signed on the fifteenth day of February, 1960, the instruments of ratification in respect of which were exchanged at Havana on the first day of March, 1960, to submit to the Court a dispute which has arisen between them as a result of the application of the Agrarian Reform Law of Cuba to nationals of the United States of America, as exemplified by Mr. Jonathan Simmons. I have also the honour to inform you that, pursuant to Articles 26 and 31 of the Statute of the Court, the Governments of the Republic of Cuba and of the United States of America request the Court to form a chamber, composed of three judges, which shall not include a judge of the nationality of either of the parties, to hear and determine their dispute.

I am, etc.

(signed) Warren Longellow

SPECIAL AGREEMENT FOR SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE OF DIFFERENCES BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CUBA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE APPLICATION OF THE CUBAN AGRARIAN REFORM LAW TO NATIONALS OF THE UNITED STATES.

The Government of the Republic of Cuba and the Government of the United States of America,

Considering that differences have arisen between them over the application of the Cuban Agrarian Reform Law of May 17, 1959, to nationals of the United States, as exemplified by Mr. Jonathan Simmons,

Desiring that these differences should be settled by a decision of the International Court of Justice determining whether or not the application of said law to nationals of the United States gives rise to the international responsibility of the Government of Cuba,

Desiring to define the issues to be submitted to the International Court by the presentation of a joint statement of facts of a case typical of the situation obtaining in Cuba, and

Desiring that their differences be settled with the utmost expedition,

Have agreed as follows:

Article I

The Court is requested to constitute a chamber, pursuant to Articles 26 and 31 of the Statute, on which a national of neither of the applicant Governments shall serve.

Article II

The Court, acting through said chamber, pursuant to Article 27 of the Statute, is requested to decide whether or not the application to Mr. Jonathan Simmons of the Agrarian Reform Law of

May 17, 1959, under the agreed facts set forth in Annex 1, gives rise to the breach of an international obligation of the Government of the Republic of Cuba, and, if so, what is to be the nature and extent of the reparation to be made for such breach.

Article III

In recognizing the right of the Government of the United States to espouse the claim of its national, Mr. Jonathan Simmons, the Government of the Republic of Cuba hereby waives any objections to that claim founded in any failure to exhaust local remedies.

Article IV

Upon the entry into force of the present Agreement, it may be notified to the Court under Article 40 of the Statute by either of the Contracting Parties.

Article V

(a) The present Agreement shall be subject to ratification.

(b) The instruments of ratification shall be exchanged as soon as possible in Havana and the present Agreement shall enter into force immediately upon the exchange of ratifications.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed the present agreement and have affixed thereto their seals.

Done in duplicate in Washington, the fifteenth day of February 1960, in English and Spanish, both texts being equally authoritative.

(L.S.) Ernest L. Throption

(L.S.) Ignacio Herrera Porfirio

Annex 1.

In 1938, Jonathan Simmons, an American cattle rancher from Wyoming, settled in the Organos mountains in the Pinar del Rio province, west of Havana, Cuba. He purchased 6000 acres of land that he judged were excellently suited for cattle ranching. Over the years, with funds lent to him by his family in Wyoming and out of his earnings, he increased the size of his ranch to 19,000 acres. He built what was regarded as a model cattle ranching enterprise. In September, 1958, Mr. Simmons declined an offer of \$1,200,000 for the ranch, including all its improvements and livestock of about 5000 head.

On May 17, 1959, the President of the Republic of Cuba promulgated, in the name of the Council of Ministers, an Agrarian Reform Law (passages of which are reproduced as Annex 2). The Law provides for the expropriation of rural properties in excess of a prescribed acreage (in the case of ranches, 3,333 acres). Article 29 of the Law provides for the payment of an indemnity for expropriated property. The Law creates a National Agrarian Reform Institute charged with its implementation.

Pursuant to the Law, Mr. Simmons seasonably submitted to the Institute his property deeds, surveys, and other documentation required. On October 10, 1959, a military unit appeared at the ranch and informed the manager that they were taking possession of the property in the name of the Institute. The Institute appointed as its representative Senor Jose Garcia Rosados, chief of the district's civilian militia, and, formerly, an employee on the ranch. Senor Garcia found it necessary to move into Mr. Simmons' residence on the ranch, Mr. Simmons having been enabled to remove clothes and various personal belongings. Despite applications to Senor Garcia and more senior officials of the

Institute, Mr. Simmons to date has received no inventory of what the Institute has vested, no receipts of any kind, nor, as yet, compensation in the form prescribed by the Agrarian Reform Law. He has not received indication as to which 3,333 acres he will be permitted to retain. However, Mr. Simmons has been assured by Senor Garcia that, in due course, as the broad policy of the National Agrarian Reform Institute clarifies, he will receive the acreage and the compensation provided by the Law. The difficulties of implementing a large scale agrarian reform have been brought to Mr. Simmons' attention.

The Law provides for the constitution of special Land Courts to decide legal proceedings that may arise from the implementation of the Law. Upon application to the local Land Court, Mr. Simmons was informed by the Clerk that all adjudications by the Court had been suspended pending the issuance of governing policy by the Council of Ministers, which, however, would in any case be consonant with the Law. Mr. Simmons thereupon appealed to the Embassy of the United States of America in Havana for diplomatic protection. His claim, together with those of other United States nationals similarly situated, was referred to the Department of State. The Department made representations to the Government of the Republic of Cuba, whose response, in the Department's view, was not satisfactory. Desirous of disposing of Mr. Simmons' claim, and of other claims of the United States nationals similarly situated, in an equitable manner, the Government of the United States and the Government of the Republic of Cuba, being at variance in their view as to the lawfulness of such actions under international law by Cuba, decided to refer their dispute to the International Court of Justice, pursuant to the terms of the foregoing Special Agreement.