

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

IN THE MATTER OF THE CLAIM OF

CARMEN R. PEARCY
MORGAN C. PEARCY
JOSE DANIEL PEARCY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0749

Decision No. CU-

3454

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$3,925.00, was presented by CARMEN R. PEARCY, MORGAN C. PEARCY, and JOSE DANIEL PEARCY based on the asserted loss of an automobile and household furnishings. The claimants have been United States nationals at all times pertinent hereto.

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.

Claim is asserted for the loss of a 1957 Chevrolet automobile and various items of household furnishings and furniture. The record indicates that in January, 1960, CARMEN R. PEARCY and her husband, Daniel G. Percy, a national of the United States who died in Florida on March 7, 1965, moved to Cuba from the State of Florida; that they had resided in Cuba until January 25, 1963 when they returned to Florida. The record contains statements of ownership by Daniel G. Percy of the 1957 Chevrolet automobile and certain items of furniture and household furnishings with their value as given to the Cuban consul in January, 1960 and a copy of a purchase agreement for the purchase of certain items of furniture by CARMEN R. PEARCY on February 9, 1960 in Havana, Cuba.

On the basis of the evidence of record, and in the absence of contrary evidence, the Commission finds that Daniel G. Percy was the owner of a 1957 Chevrolet automobile and certain furniture and furnishings listed for the Cuban consul in January, 1960 and was the joint owner with CARMEN R. PEARCY of a glass-top table, buffet, 6 chairs, a colonial wardrobe, dresser and mirror, and 2 night tables which had been purchased in Cuba. The Commission further finds that these items of personal property were taken by the Government of Cuba without compensation on January 26, 1963 in accordance with the terms of Law 989 (Official Gazette, XXIII, No. 237, p.23705) which confiscated all assets, personal property and real estate of persons who had left the country.

The Commission finds also that Daniel G. Percy died intestate in the State of Florida on March 7, 1965 and in accordance with Florida

laws of succession, his interests were inherited in equal shares by his three heirs, his widow, CARMEN R. PEARCY, and two sons, MORGAN C. PEARCY, and JOSE DANIEL PEARCY, claimants herein.

In determining the value of the property taken by the Government of Cuba, the Commission has considered the stated 1960 values for the automobile and other personal property moved from Florida to Cuba and the purchase price for the furniture bought in Cuba with an allowance for the use of these items until January 26, 1963, the date of loss. The Commission finds that the total value of the automobile and furnishings owned solely by Daniel G. Percy on January 26, 1963 was \$1,380.00 and the value of the furniture owned by Daniel G. Percy and CARMEN R. PEARCY was \$1,200.00 and concludes that claimants succeeded to and suffered a loss in the total amount of \$2,580.00 within the meaning of Title V of the Act, the amount of loss suffered by CARMEN R. PEARCY being \$1,260, by MORGAN C. PEARCY being \$660.00, and by JOSE DANIEL PEARCY being \$660.00.

The Commission has decided that in certification of loss 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 the Claim of of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case, it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that CARMEN R. PEARCY 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 One Thousand Two Hundred Sixty Dollars (\$1,260.00) with interest at 6% per annum from January 26, 1963 to the date of settlement;

the Commission certifies that MORGAN C. PEARCY 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 Sixty Dollars (\$660.00) with interest at 6% per annum from January 26, 1963 to the date of settlement; and

the Commission certifies that JOSE DANIEL PEARCY 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 Sixty Dollars (\$660.00) with interest at 6% per annum from January 26, 1963 to the date of settlement.

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

JAN 14 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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 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).)