

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

IN THE MATTER OF THE CLAIM OF

BERNICE L. TWIGGS

Claim No. CU-2538

Decision No. CU 4200

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Rufus King, Esquire

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by BERNICE L. TWIGGS, a national of the United States since her birth on April 22, 1889, and is based upon the asserted loss of a pension.

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.

It is asserted by the claimant, BERNICE L. TWIGGS, that she was entitled to a pension of 124.74 pesos per month due from the Caja Nacional del Retiro del Transporte Terrestre (National Land Transportation Workers' Retirement Fund). It is further asserted that as of June 1, 1961, no amounts on account of such pension right were received by the claimant.

On the basis of the documentation, submitted by the claimant, the Commission finds that on a date prior to January 6, 1960, the National Land Transportation Workers' Retirement Fund, hereafter referred to as the Fund, allowed a retirement pension to claimant in the amount of 175.00 pesos per month. This amount, however, was reduced by 50% in case the pensioner resided abroad and further by 10% and 3%, resulting in a reduced monthly pension of 73.50 pesos (882.00 pesos per annum).

The Fund was regulated by Law-Decree No. 1457 of June 3, 1954, as amended by Law-Decrees No. 1645 of August 14, 1954, No. 1955 of January 25 and No. 2064 of January 27, 1955; Law Decrees No. 1605 of August 12, 1954 and No. 991 of June 24, 1953.

On May 29, 1959, Law No. 351 was enacted which provided for the establishment of the Banco de Seguros Sociales de Cuba (Social Insurance Bank of Cuba) as an agency of the Government of Cuba to supervise and administer social insurance, as well as to direct the policy concerning all social security matters. The law also provided for the transfer of the assets and liabilities of all pension funds to the Banco de Seguros Sociales de Cuba. Information also shows that retired employees received their monthly retirement benefits (pensions) from the Banco de Seguros Sociales de Cuba up to the time of their departure from Cuba. After their departure from Cuba the benefits remained unpaid. On the basis of evidence of record the Commission finds that from June 1, 1961, and thereafter the Government of Cuba refused to transfer any pension benefits to claimant, who was then residing in the United States.

In our decision entitled the Claim of A. M. Joy de Pardo (Claim No. CU-1906 which we incorporate herein by reference), we held that the refusal of the Government of Cuba to transfer retirement benefits to claimant constituted a taking of her property within the purview of Section 503(a) of the Act. Therefore, the Commission finds that claimant's claim for the loss based upon such taking in the instant claim arose on June 1, 1961.

The Commission has adopted as a basis for the valuation of annuities the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031-7.) According to that method of valuation, the value of the annuity for a person of the age of 72 amounts to 7.1597 times the yearly sum of the annuity. Since on June 1, 1961, claimant was 72 years of age, the value of her discounted annuity on that date amounted to \$882.00 (the peso being on a par with the United States dollar) times 7.1597 or \$6,314.86.

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

CERTIFICATION OF LOSS

The Commission certifies that BERNICE L. TWIGGS sustained 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 Thousand Three Hundred Forteen Dollars and Eighty-six Cents (\$6,314.86) with interest at 6% per annum from June 1, 1961, the date of loss, to the date of settlement.

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

NOV 14 1969

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).)