

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

IN THE MATTER OF THE CLAIM OF

LUCILLE DENEEN COLE  
HUGH LIVINGSTON COLE, JR.  
JOHN MARTIN COLE  
MARY COLE ORMESHER  
SHIRLEY COLE MATTISON  
FRANCES COLE HANSEN

Claim No. CU-3428

Decision No. CU - 1626

Under the International Claims Settlement  
Act of 1949, as amended

FINAL DECISION

By Proposed Decision dated April 10, 1968 the Commission denied this claim for failure of proof. Claimant LUCILLE DENEEN COLE, a national of the United States since birth, has since submitted satisfactory evidence and the Commission now finds as follows.

The record in this and a related case (Claim No. CU-3523, Claim of Amelia Cole Wedderspoon) shows that various members of the Cole family held stock in the Isle of Pines Land and Development Co., which held various plots in the Santa Rosalia Estates. In 1956 the company was dissolved and the various shareholders were given deeds to specific pieces of real property.

In this fashion Hugh Livingston Cole, a national of the United States since birth, and now deceased, acquired title to the following real property:

- 1) In lot 16, Section 38 - three acres, beachfront
- 2) Parcel 4 in Lot 16, Section 19 - 1.6 acre
- 3) Lot 2, Section 39 - 20 acres
- 4) Lot 7, Section 39 - 20 acres

As these had been family properties, the Commission holds that they were not in fact subject to the community property law of Cuba, and that the decedent held sole title during his lifetime.

The Commission further finds that these properties were taken by the Government of Cuba on June 3, 1959, pursuant to the Agrarian Reform Law (see Claim of Council Bluffs Savings Bank, Claim No. CU-1290).

Based on the record and evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that on the date of

loss the properties had the following values:

Item 1) -	\$2,500.00	
Item 2) -	350.00	
Item 3) -	5,000.00	
Item 4) -	<u>5,000.00</u>	\$12,850.00

Accordingly, the Commission holds that Hugh Livingston Cole suffered a loss in the amount of \$12,850 within the meaning of Title V of the Act as a result of the taking of his property on June 3, 1959.

Hugh Livingston Cole died intestate in Illinois on July 6, 1962, leaving him surviving his widow LUCILLE DENEEN COLE, and five children, nationals of the United States, HUGH LIVINGSTON COLE, JR., JOHN MARTIN COLE, MARY COLE ORMESHER, SHIRLEY COLE MATTISON and FRANCES COLE HANSEN. The Commission finds that pursuant to the law of Illinois the widow succeeded to the claim against Cuba in one-third part and the five children sharing equally in the remaining two-thirds part.

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

The following Certifications of Loss will be entered and in all other respects the Proposed Decision as amended herein is affirmed.

#### CERTIFICATIONS OF LOSS

The Commission certifies that LUCILLE DENEEN COLE 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 Four Thousand Two Hundred Eighty-Three Dollars and Thirty-Five Cents (\$4,283.35) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement;

The Commission certifies that HUGH LIVINGSTON COLE, JR. 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 Seven Hundred Thirteen Dollars and Thirty-Three Cents (\$1,713.33) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement;

The Commission certifies that JOHN MARTIN COLE 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 Seven Hundred Thirteen Dollars and Thirty-Three Cents (\$1,713.33) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement;

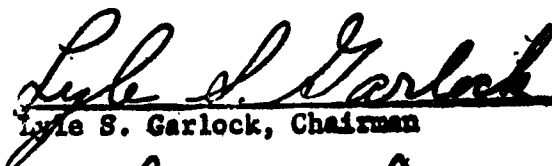
The Commission certifies that MARY COLE ORMESHER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Seven Hundred Thirteen Dollars and Thirty-Three Cents (\$1,713.33) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement;

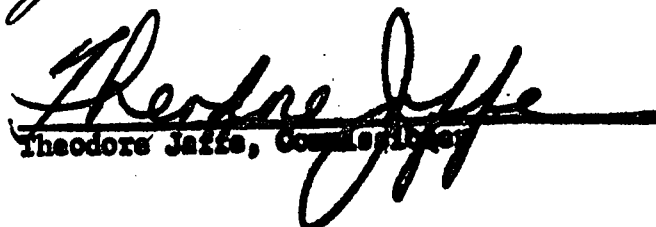
The Commission certifies that SHIRLEY COLE MATTISON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Seven Hundred Thirteen Dollars and Thirty-Three Cents (\$1,713.33) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement; and

The Commission certifies that FRANCES COLE HANSEN 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 Seven Hundred Thirteen Dollars and Thirty-three Cents (\$1,713.33) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement.

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

SEP 1 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, 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.

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OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LUCILLE DENEEN COLE

Under the International Claims Settlement  
Act of 1949, as amended:

Claim No. CU - 3428

Decision No. CU - 1626

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$12,850.00, was presented by LUCILLE DENEEN COLE, and is based upon the asserted loss of real property located on the Isle of Pines, Cuba. Claimant stated that she has been a national of the United States since her birth.

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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Other than her claim application and requests for assistance, claimant has not submitted evidence in support of this claim. By Commission letter of December 16, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Evidence in response to this correspondence was not received.

On January 24, 1968, claimant was invited to submit any evidence available to her within 45 days from that date, and she was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property

which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

APR 10 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

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).)

CU- 3428