

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

IN THE MATTER OF THE CLAIM OF

AUGUSTUS P. LORING, ALBERT E. WADSWORTH,  
ANGUS M. IRVINE and SUMNER PINGREE, JR.,  
EXECUTORS OF THE ESTATE OF SUMNER PINGREE,  
DECEASED

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for Claimants:

Claim No. CU-2269  
Claim No. CU-2276

Decision No. CU - 5928

Bingham, Dana & Gould  
By Walter D. Malcolm, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the total amount of \$9,782,745.00, were presented by AUGUSTUS P. LORING, ALBERT E. WADSWORTH, ANGUS M. IRVINE and SUMNER PINGREE, JR., EXECUTORS OF THE ESTATE OF SUMNER PINGREE, DECEASED, based upon the asserted loss of real and personal property in Cuba. SUMNER PINGREE, who died testate on February 18, 1965, devised his property in trust for his children who are United States nationals.

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.

Losses are asserted for the following property:

Cashiers checks issued by the Royal Bank of Canada in Havana and First National Bank of Boston in Havana and Santiago		\$ 97,500.00
Real and personal property of Sumner Pingree in Oriente Province		4,304,427.00
Hacienda San Andres, S.A.		
Equipment	\$ 41,138.00	
Cattle	342,900.00	
Commercial Cattle	1,185,642.00	
Horses	84,100.00	
Land and Improvements	3,421,694.00	
Additional Equipment		
Livestock	<u>305,344.00</u>	<u>5,380,818.00</u>
		\$9,782,745.00

Since the Cuban corporation, Hacienda San Andres, S.A., was organized under the laws of Cuba, it does not qualify as a corporate "national of the United States" within the meaning of Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.) The evidence of record herein discloses that the late Sumner Pingree owned all of the outstanding shares of stock of Hacienda San Andres, S.A.

#### Cashiers Checks

In support of the claim for the cashiers checks, photocopies have been submitted of the original checks made out to Sumner Pingree or to Melvin Cann who endorsed his checks and gave them into the possession of Mr. Pingree.

The checks were issued in 1959 and 1960 by Cuban branches of the First National Bank of Boston and the Royal Bank of Canada for the total sum of 97,500.00 Cuban pesos. On the basis of the evidence, the Commission finds that the late Sumner Pingree had on deposit with the Cuban branches of the two banks the sum of 97,500 pesos payable on his demand. (See Claim of Ana Maria Lopez Gutierrez, Claim No. CU-0197.)

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all goods and chattels, rights, shares, stocks, bonds and other securities of persons who had left the country. The Commission has held that this included bank accounts. (See Claim of Floyd Auld, Claim No. CU-0020.) As the record shows, on December 6, 1961, Sumner Pingree was residing in Massachusetts.

Accordingly, the Commission finds that the funds owing to Sumner Pingree were taken by the Government of Cuba on December 6, 1961 and further that the 97,500 pesos had a value of \$97,500.00. The Commission concludes that Sumner Pingree sustained a loss in the amount of \$97,500.00 within the meaning of Title V of the Act as a result of the actions of the Government of Cuba on December 6, 1961.

#### Sumner Pingree Ranch

Claim has been asserted for the amount of \$4,304,427.00 for the ranch property of Sumner Pingree which the Commission finds was taken by the Government of Cuba in part on January 7, 1960 and the remainder on October 24, 1960. The record shows and the Commission finds that Sumner Pingree was the owner of 886.2530 caballerias of land which were leased to Hacienda San Andres, S.A. Of this land 720.2538 cabs had been cleared and cultivated as pasture lands, 141 cabs were covered by forests and 25 cabs were occupied by bateys or roads. The pasture lands were divided into many small corrals by approximately 400 miles of fencing. In support of the claimed value for this ranch, claimants have submitted an appraisal of the property made in 1961, photos, affidavits of persons who had personal knowledge of the land,

buildings and operation of the ranch, survey maps, deeds, an inventory of property issued by the National Institute of Agrarian Reform, and reports to the American Embassy in Cuba submitted by employees of Mr. Pingree.

On the basis of the evidence of record, the Commission finds that the Sumner Pingree ranch property was taken on the dates and with the values as indicated:

January 7, 1960

670.2538 cabs of pasture land	\$2,681,015.20	
Pasture grass	559,646.92	
141 cabs, wild forest	282,000.00	
25 cabs, bateys and roads	100,000.00	
Corrals	50,000.00	
Fences	200,000.00	
Irrigation system	50,000.00	
Roads and electric high tension lines	50,000.00	
Forest	<u>20,000.00</u>	\$3,992,662.12

October 24, 1960

50 cabs of pasture land	\$ 200,000.00	
Pasture grass	41,765.00	
Buildings	<u>70,000.00</u>	<u>\$ 311,765.00</u>

Total \$4,304,427.12

Hacienda San Andres, S.A.

According to the record, Hacienda San Andres, S.A. carried on ranching operations on land leased from Sumner Pingree and on 758.4055 caballerias of land it owned. The ranch was developed over a period of years by the stepfather of Sumner Pingree and later by Sumner Pingree. It was a modern operation in the use of its land in the raising of cattle and horses.

The Commission finds that certain properties of this corporation were taken by the Government of Cuba on January 7, 1960 and the balance on October 24, 1960 under Resolution No. 3 pursuant to Law 851 of July 6, 1960 when the company was listed as nationalized.

The amount of loss for the taking of Hacienda San Andres, S.A. is asserted to be \$5,380,818.00 and is based upon the appraisal of 1961, the inventory made by the INRA, and supporting affidavits.

On the basis of the evidence, the Commission finds that the assets of Hacienda San Andres, S.A. were taken on the dates and with the values as listed below:

January 7, 1960

468.90471 cabs pasture land	\$2,110,071.38	
Pasture grass	391,535.47	
15 cabs, bateys and roads	57,250.00	
274.3347 cabs, occupied by squatters	685,836.75	
Corral	15,000.00	
Fences	90,000.00	
Irrigation system	30,000.00	
Dwellings and warehouse	30,000.00	
Airport and hangar	12,000.00	
Vehicles, equipment & machinery	36,000.00	
Cattle:		
Commercial, 8470 head	1,185,642.00	
Santa Gertrudis, 467 head	342,900.00	
Horses and Mules, 346 head	<u>84,100.00</u>	\$5,070,335.60

October 24, 1960:

Cattle, 442 head	\$ 225,355.00	
Horses, 77 head	36,250.00	
Willys Jeep, compressor, depreciated value	1,500.00	
2 Toyota Jeeps, depreciated	3,600.00	
Ford Pickup Truck	2,500.00	
Farmall Diesel Tractor	<u>3,700.00</u>	<u>272,905.00</u>

Total \$5,343,240.60

Accordingly, the Commission finds that the total assets of Hacienda San Andres taken by the Government of Cuba were \$5,343,240.60. However, the record shows that, at the time of nationalization of the Cuban corporation, it had liabilities in the total amount of \$375,000.00 owed to the Cuban branches of First National Bank of Boston and to Central Ermita, S.A. (which will be considered in Claim No. CU-2275 which is based upon the net worth of Central Ermita, S.A.). The Commission therefore concludes that Sumner Pingree suffered a loss in the amount of \$4,968,240.60 for his ownership interest in Hacienda San Andres, S.A. and \$4,304,427.12 for the loss of his ranch property as a result of the actions of the Cuban Government on January 7, 1960 and October 24, 1960, within the meaning of Title V of the Act.

Claimants, in the statement of claim form duplicated the claim for two bulldozers and other items of equipment which were listed as taken by the INRA on January 7, 1960. These items were listed in paragraphs 1 and 5 in the summary of losses, under paragraph 1 for the original cost price and under paragraph 5 for the appraised value. However, only the appraised value was considered in determining the loss. It should also be noted that no provision is made in the determination for a loss to the surviving spouse of Sumner Pingree. Although the community property laws of Cuba are normally applied, the deeds of the ranch property to Mr. Pingree state that the property was purchased with funds inherited from his mother and the community property laws are not applicable.

Recapitulation

The losses suffered by Sumner Pingree to which claimants succeeded are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Cashiers checks	December 6, 1961	\$ 97,500.00
Sumner Pingree Ranch	January 7, 1960	3,992,662.12
	October 24, 1960	311,765.00
Hacienda San Andres, S.A.	January 7, 1960	4,695,335.60
	October 24, 1960	<u>272,905.00</u>
	Total	<u>\$9,370,167.72</u>

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 ordered as follows:

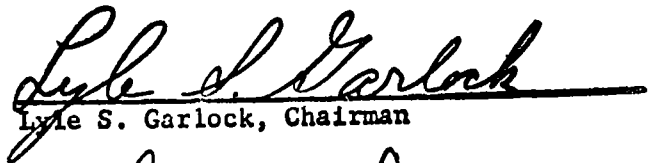
<u>FROM</u>	<u>ON</u>
January 7, 1960	\$8,687,997.72
October 24, 1960	584,670.00
December 6, 1961	<u>97,500.00</u>
Total	<u>\$9,370,167.72</u>

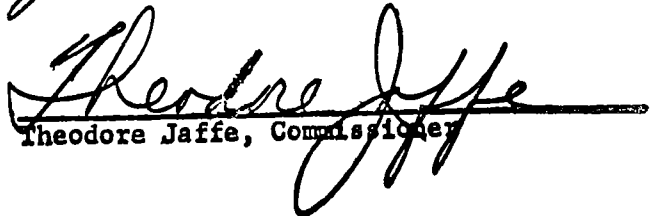
CERTIFICATION OF LOSS

The Commission certifies that AUGUSTUS P. LORING, ALBERT E. WADSWORTH, ANGUS M. IRVINE and SUMNER PINGREE, JR., EXECUTORS OF THE ESTATE OF SUMNER PINGREE, DECEASED, 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 Nine Million Three Hundred Seventy Thousand One Hundred Sixty-seven Dollars and Seventy-two Cents (\$9,370,167.72) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

28 OCT 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: This claimant may be the subject of another certification of loss in CU-2275 involving asserted losses not covered under this Proposed Decision.

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).)