



Section III
Completion of the China
Claims Program
Under Title V of the
International Claims
Settlement Act of 1949

Foreign Claims Settlement
Commission of the United States

SUMMARY

Title V of the International Claims Settlement Act of 1949 (78 Stat. 1110), as further amended by Public Law 89-780 (80 Stat. 1365), approved November 6, 1966, authorized the Commission to receive and determine in accordance with applicable substantive law, including, international law, the validity and amount of claims of nationals of the United States for: (1) losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property of nationals of the United States; and (2) disability or death, resulting from actions taken by or under the authority of the Chinese Communist regime. All such claims must have arisen since October 1, 1949.

As will be noted, this program was quite similar to the Cuban Claims Program, providing for the same types of claims of nationals of the United States, except that the covered China claims were those that arose since October 1, 1949 when the Chinese Communist regime assumed power, whereas the Cuban claims were those that arose since January 1, 1959 when Castro came into power. The full text of the statute, which also governs the Cuban Claims Program, appears as Exhibit 11. The applicable regulations which likewise govern both claims programs appear as Exhibit 12. However, for the purpose of this report, the Cuban Claims Program and the China Claims Program are dealt with herein under Sections II and III, respectively. In order to retain continuity in this respect, the Table of Contents shows the statute and regulations for the China Claims Program as Exhibits 16 and 17, respectively, but refers the reader to Exhibits 11 and 12. The claim form and instruction sheets for filing claims against the Chinese Communist regime appear as Exhibit 18.

This statute was enacted in order to obtain information concerning the total amount of claims of nationals of the United States against the Chinese Communist regime. As in the case of the Cuban Claims Program, the statute does not provide for the payment of awards granted by the Commission, but authorizes a presettlement adjudication of claims for the purpose of any future negotiations with the Government of China.

This program commenced on November 8, 1967, when appropriations for administering the statute were made available. The deadline for filing such claims was July 6, 1969, and this program was completed by July 6, 1972 as was the Cuban Claims Program.

For these reasons, many of the principles established by the Commission in administering the China Claims Program were

identical with those in the Cuban Claims Program. In a number of instances, decisions on China Claims cited precedent decisions in the Cuban Claims Program. Moreover, since the number of claims filed against the Chinese Communist regime was only a small fraction of the number of Cuban claims, the publication of only several of the more significant cases is included in this report, as follows:

1. In a typical claim, it was clear that supporting evidence was not as readily available as in the case of Cuban claims. The Commission recognized this fact, and exercised its discretion by considering secondary and any other evidence having probative value.

Just as was the practice in the Cuban Claims Program, the Commission reduced the certifiable amount by any amount a claimant had received on account of the same loss from whatever source.

Similarly, the Commission held that under principles of international law, justice and equity, interest is a proper part of an award.

The foregoing three principles were applied in the *Claim of Clarence Burton Day, et al.*, Claim No. CN-0030, reported herein. It will be noted that a Cuban precedent is cited in this case.

2. The Commission held that the loss of control, use and enjoyment of property as a result of physical occupation by Chinese Communist forces constituted a taking of property within the meaning of title V of the Act. (See the *Claim of Arthur B. Coole, et al.*, Claim No. CN-0040, reported herein.) In a number of cases, as in this case, the Commission had in its possession evidence concerning some of the asserted losses which it had gathered in the course of administering the General War Claims Program under the War Claims Act of 1948. As already indicated in Section I hereof, a final report on the General War Claims Program appears in the Commission's Annual Report for 1967.

The information and material contained in the General War Claims files provide to be of great assistance in adjudicating claims against the Chinese Communist regime. There were many instances in which claimants in the China Claims Program had filed claims in the General War Claims Program. Whenever evidence from those files was pertinent to the claim in question, a statement to that effect was included in the decision, as was the case in the *Coole* claim. Here again, the Commission cited a Cuban precedent in the *Coole* claim; namely, that the Commission is not bound by the amounts asserted by claimants, and that where warranted by the record the amounts of loss found by

the Commission may be in excess of the amounts asserted by claimants.

3. One of the largest claims in the China Claims Program was presented by a nonprofit organization which operated medical, hospital, and nursing facilities in China. This claim involved many different items of property that had been taken by the Chinese Communist regime. A very important issue in this case was valuation.

The Commission held that it may take judicial notice of the fact that real property values have increased over the years, a holding which it had also applied in the Cuban Claims Program. Accordingly, appropriate upward adjustments in these respects were made by the Commission. On the other hand, the Commission took note of the property damages that had been sustained during World War II. Thus, appropriate reductions in value were made with respect to war damaged properties that had not been repaired or replaced. In this way, the Commission determined the values of those properties on the date of taking by the Chinese Communist regime.

With respect to other items of property, accepted depreciation rates were applied in evaluating the items. The Commission also reaffirmed its holding in the *Claim of M & M Dredging & Construction Co., et al.*, another Cuban precedent reported herein, that "cost of replacement" means replacement in kind, taking into consideration the age and condition of the properties on the dates of loss, and that it does not mean replacement with new properties.

Another interesting aspect of this claim was the value of a unique medical library which contained, *inter alia*, original manuscripts of Chinese scholars and the most complete collection in the world of books on Chinese classical medicine. The Commission determined the value of this library on the basis of an appraisal by an expert who had personal knowledge of the contents of the library. (See the *Claim of China Medical Board of New York, Inc.*, Claim No. CN-0415, reported herein.)

4. A very interesting case was presented involving title to real property in certain areas of China. The record showed that in those areas it was prohibited to record title to property in the name of an American. In order to protect their rights, such Americans who were actually the true owners of the properties developed a practice of recording title to the properties in the names of their Chinese agents, and mortgages for the full values of the properties were executed in favor of the Americans. The Commission held that under the circumstances the Americans were the real owners of the properties, and entered Certifications of

Loss to the Americans whose properties were taken by the Chinese Communist regime. (See the *Claim of Franklin Russel Fette*, Claim No. CN-0336, reported herein.) It may be noted that the rule concerning beneficial ownership of property is one which the Commission has applied in many cases throughout its history of adjudicating international claims. [See FCSC Dec. & Ann. 39, 61, 88, 389 and 591 (1968)].

5. A most unusual case involved the Shanghai branch of an American enterprise. In order to obtain certain monies from the American enterprise which the Chinese Communist regime asserted were due it, an American official of the enterprise and his family were detained deliberately in China and prevented from leaving that country for five years. Only upon the transmittal of the demanded funds from the enterprise in the United States, which had to be approved by the Treasury Department, did the Chinese authorities permit the official and his family to leave. The Commission held that the transaction was consummated under duress, constituted a violation of international law, and gave rise to a claim against the Chinese Communist regime under Title V of the Act. (See the *Claim of American Express International Banking Corporation*, Claim No. CN-0340, reported herein.)

6. The Commission held that untimely claims against the Chinese Communist regime may be considered on their merits if it does not interfere with the orderly processing of the timely filed claims. (See the *Claim of Irene McGlashen*, Claim No. CU-0577, reported herein.) Thus, the Commission followed the same practice as in the Cuban Claims Program and for the same purpose: to compile a complete record of all claims against the Chinese Communist regime. It will be noted that the Cuban precedent decision in this respect, *Claim of John Korenda*, Claim No. CU-8255, which is also reported herein, is cited in the *McGlashen* case. On the same theory, the Commission did entertain claims for losses sustained in Cuba after enactment of Title V of the Act for here again, it would be valuable to include all claims against the Government of Cuba arising since January 1, 1959, when Castro came into power. Had there been any such claims against the Chinese Communist regime, they, too, would have been considered on their merits under the same conditions as the Cuban claims.

7. The foregoing circumstances discussed under item (6) above, however, must be distinguished from those in the *Claim of Rosary Mission Society, Inc.*, Claim No. CN-0475, reported herein. This case involved, *inter alia*, a claim for the death of one of claimant's missionaries in 1947 at the hand of a band of Chinese guerrillas.

The Commission held that claims arising prior to October 1, 1949, when the Chinese Communist regime came into power, are outside the purview of title V of the Act. In effect, the Commission applied the rationale of the statute, that all claims which arose prior to October 1, 1949 could not properly be asserted against the Chinese Communist regime since that regime was not in authority prior to that date.

By the same token, all claims assertedly arising in Cuba prior to the advent of Castro on January 1, 1959 were likewise excluded under title V of the Act. There were some situations, as already noted in Section II hereof, in which debts of Cuba were incurred prior to January 1, 1959, but the refusal to pay them first occurred after January 1, 1959, which gave rise to a claim against the Castro government. (See the *Claim of Clemens R. Maise*, Claim No. CU-3191, 1967 FCSC Ann. Rep. 48.) In the case of the *Rosary Mission Society, Inc.*, however, all the acts that gave rise to the death claim occurred long before October 1, 1949. Accordingly, there was no valid basis for attributing that claim to any action by the Chinese Communist regime since October 1, 1949, despite the fact that the Chinese guerrillas who killed the missionary may have been Communists.

8. The United States nationality prerequisites were identical with those in the Cuban Claims Program. Thus, if a claimant failed to establish that he was a national of the United States and that his claim was owned by a national of the United States continuously from the date of loss until the date of filing with the Commission, his claim was denied. The same considerations applied to corporations and other legal entities. In adjudicating a claim filed by a religious organization, the Commission was constrained to deny the claim because the record showed that claimant was not a national of the United States within the meaning of title V of the Act. (See the *Claim of the Missionary Sisters of the Immaculate Conception*, Claim No. CN-0361, reported herein.)

9. During the course of administering many claims programs over the years, it has always been Commission policy to give weight to valid appraisals of properties in resolving questions of valuation. The same policy prevailed in the adjudication of claims under title V of the Act. For example, the book values of assets were increased on the basis of competent appraisals in the Cuban Claims Program. (See the *Claim of Ruth Anna Haskew*, Claim No. CU-0849, 1968 FCSC Ann. Rep. 31.)

A claim was presented involving certain property losses resulting from action by the Chinese Communist regime. Claimant submitted appraisals of its properties made by a real estate expert.

However, claimant asserted losses in amounts substantially lower than those appraisals with respect to several items of property for the reason that the appraisals had been tied to a gold standard of \$60.00 and \$48.00 per ounce of gold, respectively. Claimant reduced its claim for these properties by taking into consideration the fact that an ounce of gold had a value of \$35.00. The Commission rejected the appraisals on the ground that they were grossly exaggerated, having been tied to artificial gold values; and the values of the properties in question were determined by resort to more reliable information concerning industrial real property in China. (See the *Claim of General Electric Company*, Claim No. CN-0292, reported herein.) Generally in such situations, the Commission considered the values of comparable properties in China. In the case of properties owned by nonprofit organizations, for example, the Commission concluded that the use of values of comparable properties owned by similar organizations in China was a proper and equitable basis for resolving the issue of valuation under title V of the Act. (See the *Claim of United Board for Christian Higher Education in Asia*, Claim No. CN-0401, reported herein.)

10. The issue of currency devaluation was not encountered in the Cuban Claims Program because the Cuban peso was found to be on a par with the United States dollar. (See the *Claim of Betty G. Boyle*, Claim No. CU-3473, 1968 FCSC Ann. Rep. 81.) However, a claim involving this question was presented in the China Claims Program.

For the purpose of evaluating certain real and personal property that had been taken by the Chinese Communist regime, the Commission concluded that a balance sheet as of December 31, 1949 was the most appropriate and equitable basis in this respect. An examination of that balance sheet showed that it listed as assets, *inter alia*, certain current items, such as cash, accounts receivable, prepaid items and similar intangibles which were expressed originally in local Chinese currency that had become worthless prior to the date of loss. The Commission held that since such items could be measured only in terms of the local currency in which they were expressed, no values for them could be allowed as of the date of loss under title V of the Act. Accordingly, these items were disregarded in determining the value of the assets in the balance sheet. However, items of tangible real and personal property in the balance sheet were found to have real values irrespective of what currency was used to express their values (See the *Claim of Shanghai Power Company*, Claim No. CN-0280, reported herein.)

In previous claims programs, the Commission dealt with questions of currency devaluations frequently. Bank accounts and mortgages expressed in Hungarian pengös, which became worthless by June 30, 1946, were found to have no values in claims under title III of the International Claims Settlement Act of 1949. (See FCSC Dec. & Ann. 235-237 [1968].) Greek currency reforms deflated the drachma to such a degree that debts expressed in that currency were extinguished for all practical purposes. (*Id.* at 294.) Certain Russian rubles became worthless (*id.* at 364), while Bulgarian leva, Rumanian lei and Polish zlotys were severely devaluated, thereby reducing debts expressed in such currency accordingly. (*Id.* at 234, 235, and 537, respectively.)

The *Shanghai Power Company* case serves to illustrate that the Commission did not disregard realities in dealing with assets expressed in foreign currencies. If the assets were such that real values could be found therefor, such values were applied in the determination of claims. A good example is the *Claim of Shanghai Wharf & Warehouse Company, Federal Inc., U.S.A.*, Claim No. CN-0416. Here the Commission considered claimant's balance sheets for the years 1935 through 1947 which recorded the values of the assets in local Chinese currency that remained constant over those years. Beginning with the balance sheet for 1948, the accountants omitted any amounts for the land and improvements because of the unprecedented depreciation of the Chinese currency, and their reluctance to express values in any currency. The Commission disregarded these circumstances and found appropriate values for claimant's assets on the basis of reliable reports.

If, however, the assets in question were expressed in foreign currencies under such conditions that no values for them could be found without conversion of such currencies into United States dollars and such conversion resulted in zero values, the Commission had no alternative but to find no values for such items. The best example of such an item is a debt—bank account, mortgage, account receivable, or the like—which, by virtue of the underlying agreement that gave rise to the debt, was valued in a particular currency that later was either severely devaluated or became entirely worthless. In the former situation, the value of the item would be minimal, while in the latter the value would be zero.

11. Several cases were complicated because they involved many items of property, each one of which had to be evaluated separately. One example is the *Claim of the Society of the Congregation of the Mission of St. Louis, Missouri*, Claim No. CN-0466, reported herein, in which the loss of some 170 buildings and other

structures was claimed.

12. The Commission entertained petitions to reopen claims against the Chinese Communist regime just as it did in the case of claims against the Government of Cuba. Two cases in this area have been selected for publication herein:

Claim of Isabelle O. Alcone, Claim No. CN-0253. Originally, this claim was denied in its entirety for lack of proof. The record failed to establish that claimant owned any interest in the properties in question, it appearing that her father, a nonnational of the United States who died in 1959, after the date of loss, was the owner thereof. Upon appeal claimant submitted competent evidence showing that she, a national of the United States at all pertinent times, owned $\frac{1}{2}$ interests in nine pieces of real property that had been taken by the Chinese Communist regime. An appropriate Certification of Loss was entered in her favor in the Final Decision on her claim.

The newly discovered evidence established that claimant owned $\frac{1}{2}$ interests in two other items of real property taken by the Chinese Communist regime. The Certification of Loss was, therefore, increased accordingly.

Claim of Shvets Realty Corporation, Claim No. CN-0480. This is also a case which was denied originally for lack of proof. While some evidence was submitted in support of objections to the denial, the proof was found to be insufficient to warrant favorable action, and the denial of the claim was affirmed.

Eight separate items of real property had been claimed. The newly discovered evidence showed that claimant owned one of the said items of real property and that the property had been taken by the Chinese Communist regime. The Commission, therefore, amended the Final Decision on this claim and entered an appropriate Certification of Loss in favor of claimant.

Exhibit 20 includes a statistical report on the China Claims Program; a tabulation of awards indicating: the type of claimant, the number of claims filed by each type, and the amounts allowed, as well as other monetary statistics, with respect to each type of claimant; and a list of the nine largest awards to American business organizations.

EXHIBIT 18

NOTICE TO CLAIMANTS

REGARDING CLAIMS AGAINST THE CHINESE COMMUNIST REGIME

Enclosed are claim forms and instructions for filing claims under Public Law 89-780 (80 Stat. 1365) approved November 6, 1966, which provides for claims against the Chinese Communist regime arising out of the nationalization, expropriation, intervention, or other taking of property of nationals of the United States, and claims for disability or death of nationals of the United States arising out of violations of international law by the Chinese Communist regime.

These forms are being furnished you in response to your request or based upon information contained in the records of the Foreign Claims Settlement Commission and the Department of State which indicate your interest in filing such a claim.

Although the Chinese Claims Program will not be officially inaugurated until such time as appropriations for its administration become available to the Commission, you may register your claim now by completing and returning these forms (FCSC 780) to the Commission. When the program is formally commenced and upon the establishment of a filing period and the publication of regulations regarding its administration, any claim filed on the enclosed forms will then be validated officially as a timely filed claim under the statute. Documentary evidence and other material which have been submitted previously to the Commission or to the Department of State will be consolidated with the claim.

Upon the receipt of completed claim forms by the Commission, such claim forms will be acknowledged, docketed, and assigned a claim number. Any question concerning the claim form or its preparation should be directed to the Foreign Claims Settlement Commission of the United States, 1111 20th Street, NW., Washington, D.C. 20579.

INFORMATION AND INSTRUCTIONS

FOR PREPARING AND FILING CLAIMS AGAINST THE CHINESE COMMUNIST REGIME

GENERAL STATEMENT

READ CAREFULLY BEFORE COMPLETING CLAIM FORM

Public Law 89-780, approved November 6, 1966, amends Title V of the International Claims Settlement Act of 1949 (78 Stat. 1110 (1964), 22 U.S.C. §§ 1643-1643k (1964)), as amended, by authorizing the Foreign Claims Settlement Commission to receive and determine the amount and validity of claims by nationals of the United States against the Chinese Communist regime for (a) losses arising since October 1, 1949 as a result of the nationalization, expropriation, intervention, or other taking thereof, or special measures directed against property including any rights or interests therein owned at the time by nationals of the United States, and (b) disability or death of nationals of the United States, including pecuniary losses and damages (e.g., loss of support, medical and funeral expenses, or other expenses), resulting from actions taken by, or under the authority of, the Chinese Communist regime since October 1, 1949.

Eligible Claimants.—A claim may not be considered under category (a) above, unless the property on which the claim is based was owned wholly

or partially, directly or indirectly, by a national of the United States on the date of loss and unless the claim has been owned continuously thereafter by one or more nationals of the United States until the date of filing with the Commission. With respect to claims under category (b) above, Title V provides that in order to receive consideration, such claim must be filed by the disabled person or by his successors in interest, and in case of death of a United States national, claims may be filed by the personal representative of decedent's estate or by a person or persons for pecuniary losses and damages (e.g., loss of support, medical and funeral expenses, or other expenses) on account of such death.

The statute further provides that no claim be considered under this section unless the property upon which it is based was owned by, or in the case of disability or death, the disabled or deceased person was, a national of the United States at the time of loss, injury or death, and if considered, such claim shall be considered only to the extent that it has been held by a national or nationals of the United States continuously until the date of filing with the Commission.

National of United States Defined.—The term "national of the United States" is defined as (1) a natural person who is a citizen of the United States, or (2) a corporation or other legal entity which was organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if 50 percent or more of the outstanding stock or other beneficial interests of such corporation or entity is owned by citizens of the United States.

Stockholders.—Claims of nationals based on ownership interests in corporations or other legal entities—(1) which are nationals of the United States will not be considered (inasmuch as such corporation or other legal entities are eligible claimants in their own right); (2) which are not nationals of the United States may be considered depending on the nature and extent of the interests therein. The amounts of any claim will reflect the proportion that such interests bear to the entire ownership interests in the corporation or other legal entity.

Evidence.—Statements of claimants in support of the claims, even when under oath, must be corroborated by other evidence. Suggestions as to the type and nature of the evidence to corroborate claims are contained on the reverse side of this form. The documents filed as evidence should be numbered consecutively and cited by number immediately after the allegations in each question. Originals of all exhibits and documents should be submitted with the claim, if available. If not available by the final date for filing, submit claim form before such date, and file documents promptly thereafter when obtained. Verified translations into English must accompany all documents in a foreign language. The person making the translation shall sign a certificate similar to the following:

"I hereby certify that I am thoroughly familiar with the language; that I have read the attached document written in said language; and that the attached English translation thereof was made by me and is a true and accurate translation."

(Name)

Signed

(Address)

All statements by persons other than the claimant which may be submitted in support of this claim shall include the following:

"The undersigned is aware that this statement is to be submitted to the Foreign Claims Settlement Commission of the United States in connection with the claim of _____ (Name of Claimant) and that any willfully false statement herein may subject the undersigned to the criminal penalties provided by law in such cases."

Commission Action.—Title V of the Act provides that the Commission certify to each individual who has filed a claim the amount determined by the Commission to be the loss or damage suffered by the claimant which is covered by the Act. The Commission is also required to certify to the Secretary of State its determination with respect to each claim filed.

Assignments.—In case of assignment of a claim, the amount determined to be due on such claim shall not exceed the actual consideration paid by the assignee or assignees. It should be noted that the nationality requirements apply equally to both the assignor and assignee.

Offsets.—The Commission, in reaching a determination with respect to the amount of loss suffered by each claimant, is required to deduct all amounts the claimant has received from any source on account of the same loss or losses.

Attorney Fees.—No remuneration on account of any services rendered on behalf of any claimant in connection with any claim filed with the Commission under this law shall exceed 10 percent on the first \$20,000 of the award as determined by the Commission, plus 5 percent on any amount which is in excess of \$20,000.

Application of Other Laws.—To the extent they are not inconsistent with the provisions of this Act, subsections (b), (c), (d), (e), (h), and (j) of section 4, subsection (f) of section 7, of Title I of the International Claims Settlement Act of 1949, as amended, are applicable to claims authorized under Title V of the Act. (These subsections pertain to procedural matters and are implemented under the Commission's Regulations (45 C.F.R. 500.1 (1964)).

Payment of Claims.—It should be noted that Title V does not provide for the payment of claims of United States nationals against the Chinese Communist regime. On the contrary, existing law specifically provides:

"This title [Title V] shall not be construed as authorizing an appropriation or as any intention to authorize an appropriation for the purpose of paying such claims."

Claim Filing Period.—Within 60 days after the enactment of legislation making appropriations to the Foreign Claims Settlement Commission for the payment of administrative expenses in carrying out its functions under the Act with respect to each respective claims program authorized, the Commission is required to give public notice by publication in the Federal Register of the time within which claims may be filed with the Commission. The time limit may not be more than 18 months after such publication. The Commission is required to complete its affairs not later than 3 years following the final filing date of each respective claims program authorized.

Penalty.—Any claimant, or person filing any claim on behalf of a claimant, who knowingly and willfully conceals a material fact or makes a false statement or representation with respect to any matter before the Commission

shall, under law, forfeit all rights to any award or payment on account of this claim and in addition shall be subject to the criminal penalties provided in Title 18, United States Code, section 1001.

Certain Awards Prohibited.—Section 208 of the Act prohibits an award to or for the benefit of any person who has been convicted of a violation of any provision of chapter 115, Title 18, of the United States Code, or of any other crime involving disloyalty to the United States.

IMPORTANT: All questions included in the statement of claim form must be answered where applicable. The statement of claim must be signed.

INSTRUCTIONS FOR COMPLETING FORM NO. 780

THE ITEMS LISTED BELOW ARE NUMBERED TO CORRESPOND TO THE ITEMS OR QUESTIONS ON THE APPLICATION FORM

Item No. 1.—If claimant is an individual, give name in full (last, first, middle) indicating any other names heretofore used; if claimant is a corporation or other legal entity, give the entity's full name, indicating any other names it has used. If claimant is other than an individual or corporation (e.g., partnership, association, trust, decedent's estate, minor's estate, etc.), state its character and attach a copy of the partnership agreement, articles of association, trust indenture, letters of administration or letters testamentary, together with a certified copy of probated will, etc., whichever is appropriate. If the claimant is asserting a claim in a fiduciary capacity, describe the capacity of the claimant and the names, addresses, and the nature and extent of the interest of all beneficiaries, indicating the nationality of each such beneficiary on a separate sheet.

Item No. 2.—If claimant is an individual, give present residence; if claimant is a corporation, other legal entity, or partnership, etc., give principal place of business.

NOTE: It is important that the Commission be notified immediately of any change in claimant's address, or his status (i.e., death, marriage, etc.). The same holds true as to dissolution, reorganization, or other changes in the status of corporations or entities filing claims or having any interest in a claim.

Item No. 3.—A person may be represented by an attorney at law admitted to practice before the courts of any State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; however, claimants are not required to be represented by counsel.

Item No. 4.—Give the dollar amount claimed for (a) all unimproved land and (b) all improved real estate in the first column with the total amount for these two categories in the column marked "Total claimed."

Item No. 5.—Give total dollar amount claimed for all personal property except stock shares, securities and notes.

Item No. 6.—Give total dollar amount claimed for stock share interest in assets of corporations or other entities. Give names of such corporations or entities on a separate sheet if space is not sufficient. State dollar amount claimed for other securities and identify.

Item No. 7.—Give dollar amount claimed for (a) debts for goods and services owed by nationalized enterprises or the Chinese Communist regime, and (b) mortgages, liens and other charges upon property taken, in the first column with the total of the two in the column marked "Total claimed." However, a claim based upon a debt or other obligation owing by any nationalized United States enterprise shall be considered only when such debt

or obligation is a charge on the property which has been nationalized or taken by the Chinese Communist regime. The term "property" as defined by paragraph (3) of section 502 of the Act, includes debts owed by the Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

Item No. 8.—This includes claims by successors in interest to a disabled person who may have died from causes other than those which resulted from wrongful acts of the Chinese Communist regime or authorities. Successors in interest (including widows, widowers, children, parents, brothers and sisters, and other near relatives) may have a claim also for loss of support and for medical, funeral, and other expenses paid by the decedent himself or his estate. Such claims may be in addition to the amount claimed for death or disablement of the American citizen.

Item No. 9.—Show the total of items 4, 5, 6, 7, and 8 as the total amount of the claim in dollars.

Item No. 10.—A native-born American citizen should submit a birth certificate or, if such certificate is not obtainable, a baptismal certificate, a certified copy of the record of baptism, passports, etc. A naturalized person, or a person who acquired U.S. citizenship by marriage or through his parent(s) must complete, in duplicate, and return to this Commission the enclosed "request for Confirmation of Naturalization." Form DSP-13. Do NOT send this form to the Immigration and Naturalization Service.

Item No. 11.—In case of claims by corporations or other legal entities, proof of 50 percent or more ownership by natural persons who were U.S. citizens will, wherever feasible, be established as indicated in Item 10 above. Where stockholders are many in number, the Commission will consider a sworn statement by the secretary or other principal officers of the corporation (or other entity) certifying, for claims based upon direct ownership by juridical persons, as to the percentages of the outstanding capital stock or proprietary interest owned by nationals of the United States at the date of loss and continuously until the date of filing this claim.

Item No. 12.—If the claimant has at any time lost his U.S. nationality, a detailed statement should be attached indicating when and how such nationality was lost, and when, and how it was reacquired, together with all pertinent documentary evidence.

Item No. 13.—Describe in detail the cause of action upon which the loss of property, or the death, injury, or physical disability of an American citizen may be attributable. Indicate the exact location in which such loss, death, or physical injury occurred. A certified copy of any specific decree or order taking or interfering with claimant's ownership of the property should be supplied together with affidavits of persons having personal knowledge of wrongful action with respect to the property, setting out fully the nature and date of such acts and by whom taken. Any other documentary evidence to establish action taken, such as laws, resolutions, requisition order, receipts for property taken, etc., should be included.

Item No. 14.—Describe in detail the property involved, including the exact location of the property at the time of its nationalization or other taking, original cost, subsequent improvements, amount of income derived from the property during the year immediately preceding the loss, value of property at time of loss, including appraisals, insured and tax valuations, evidence to

which depreciation has been taken into account in arriving at actual value. Proof of the foregoing may be in the nature of contracts, deeds, vouchers, etc., photographs of property duly authenticated, itemized list of personal property reflecting original cost, depreciation and value at time of loss, and affidavits of persons having personal knowledge of the property, the nature and amount of damages sustained, and who are qualified to express reliable opinions as to the extent of damage.

Item No. 15.—Complete chronology of medical histories should be given in case of personal injuries or disabilities, medical costs, etc. Claims based upon the death of an American citizen should contain a statement of particulars including date and place of birth of deceased, citizenship status at time of death, relationship to claimant, names and addresses of heirs, and the basis on which the amount of the claim is computed.

Item No. 16.—Certified copy of deeds, extracts from property registers, contract of purchase or other evidence of claimant's ownership of property should be furnished. In the event the property was inherited from a decedent who died intestate and no proceedings have been instituted in connection with his estate, give name in full, relationship to the claimant, and submit a certified copy of decedent's death certificate or, if none is available, other documentary proof on which you rely to establish his death and the date thereof. In such event submit, also, claimant's affidavit and the affidavits of two others who are familiar with the facts, reciting the name, age, address, and nationality of all relatives surviving.

Item No. 17.—A corporation or other legal entity filing a claim must submit proof that it is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico. Proof may be in the form of a certified copy of charter or articles of incorporation, and of amendments thereto, or a certified copy of partnership agreement, and of amendments thereto. The Commission may also accept, in lieu of the foregoing, a statement attested by an appropriate State, District, or Commonwealth official that such corporation, legal entity, or partnership agreement, is in good standing.

Section 505(a) of the act precludes claims based upon an ownership interest in any entity, such as a stockholder, an association member, etc., if the entity itself qualifies as an eligible claimant. In other words, if the entity comes within the definition of the term "national of the United States," a stockholder or member would not be an eligible claimant for his proportionate share of any compensable loss sustained by the entity.

Where any corporation or other entity does not qualify as an eligible claimant in its own right, section 505(b) of the act permits a stockholder to file a claim for his proportionate share of the loss. This would be a claim based upon the loss of direct proprietary interest in such entity.

Section 505(c) provides for claims based upon an indirect ownership of a proprietary or similar interest in a corporation or other entity which does not qualify as an eligible claimant in its own right. Such a claim would arise, for example, where the claimant owned stock in a foreign corporation which, in turn, owned stock in another foreign corporation which suffered a loss. In such a case a claim may be filed provided that at least 25 percent of the entire ownership interest in the corporation which directly suffered the loss was owned by nationals of the United States at the time of the loss.

Item No. 18.—State value of property at time of loss. If any item entering into computation of the loss, such as original purchase price, cost of improve-

ments, etc., entered into these calculations, the equivalent thereof in terms of U.S. currency should be stated, based upon the rate of exchange in effect at the time the loss occurred.

Item No. 19.—If claimant has recovered through insurance or otherwise for property losses as indicated under subparagraph (b) of item 19, proof as to the amount received or the amount expected to be received should be submitted.

Item No. 20.—No special instructions.

Item No. 21.—Chapter 115 of title 18 of the United States Code pertains to such crimes as treason, rebellion or insurrection, seditious conspiracy, advocating overthrow of the U.S. Government, failure to register as an organization which advocates the overthrow or control by force of the Government of the United States, affecting the Armed Forces of the United States during war, recruiting for service against the United States, and enlistments to serve against the United States.

Items Nos. 22 and 23.—No special instructions. Section 7(f) of the International Claims Settlement Act of 1949, as amended, which is incorporated by reference under section 509 is quoted as follows: "Nothing in this title shall be construed as the assumption of any liability by the United States for the payment or satisfaction, in whole or in part, of any claim on behalf of any national of the United States against any foreign government."

FCSC FORM 780

FOR FILING CLAIMS AGAINST THE CHINESE COMMUNIST REGIME

FCSC Form 780

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

WASHINGTON, D.C. 20579

In the Matter of the Claim of

Against the Chinese Communist regime under Title V of the International Claims Settlement Act of 1949, as amended by Public Law 89-780, approved November 6, 1966.

Claim No. CN-----

(DO NOT WRITE IN
THIS SPACE)

An original and one copy of this form and each supporting exhibit must be filed. Each document in a foreign language must be accompanied by a verified English translation. Answers should be typed or printed. Attach additional sheets as needed for any items where space on the form is insufficient. The information and instruction sheet attached hereto, with directions for each numbered item on the claim form, was prepared for the purpose of assisting you in the preparation of your claim. It is suggested that you read it thoroughly before completing this claim form.

IMPORTANT—ALL QUESTIONS CONTAINED IN THIS FORM MUST BE ANSWERED.—If claimant does not know the answer to a question or the question is not applicable to his claim, claimant should write "UNKNOWN" or "INAPPLICABLE" in the proper space.

- ### SUMMARY OF LOSSES CLAIMED

- Attach a statement by the secretary or other principal officer of the corporation (or other entity) certifying above.

12. Have there been any changes in nationality status of claimant since the date of loss? (Yes or No). If so, explain

NATURE OF CLAIM

(Date of loss)

(Location)

13. The claim arose on at
..... as a result of the following action:

14. If the claim is based upon real or personal property, please furnish description of property, location at time of loss or damage, and nature of claimant's interests.

15. If this claim is based on losses or injuries other than real or personal property covered under the preceding question, please furnish description of such losses or injury.

16. If this claim is based on loss of property, state when and how such property was acquired:

(a) If purchased, give date of purchase, and consideration paid

(b) If inherited, give date of inheritance, and from whom Value at time inherited What was nationality of the previous owner?

(c) Cost of improvements, if any, made since acquisition

(d) Do you know of any other person, firm, corporation, or other legal entity now, or since the date of loss who had or who has any interest in the property above described or in the claim hereby asserted? (Indicate the names and present addresses of all such parties.)

17. If the claim is based on the ownership of securities in a corporation, association, or other entity, indicate below the name, address, place of incorporation of such corporation, association, or entity, and the number of shares outstanding.

(Name)	(Address)	(Place of incorporation)	(Number shares)
(Name)	(Address)	(Place of incorporation)	(Number shares)
(Name)	(Address)	(Place of incorporation)	(Number shares)

AMOUNT OF CLAIM

18. This claim is asserted for the total amount of \$..... It is computed as follows:

19. (a) Has claimant filed or asserted any claim with respect to the subject matter of this claim or any related matter with or against any other agency of the United States Government on any other place? (Yes or No). If the answer is "Yes," give date of filing, agency or other place with which claim was filed, amount claimed, disposition of claim, and amount of award, if any

(b) Apart from this claim, has claimant or any predecessor in interest received, or has he any reason to expect to receive, any benefits, pecuniary or otherwise, on account of the loss resulting from the action for which this claim is filed? (If so, explain.)

(c) Has a tax deduction ever been asserted by claimant or any other predecessor with respect to losses described in this claim?..... (Yes or No). If answer is "Yes," give year such claim was asserted, amount of loss claimed, whether loss was allowed, and name of person claiming such tax deduction

20. Set forth any additional facts pertinent to this claim.
.....

GENERAL

21. Has the claimant or any person for whose benefit any award upon this claim may inure, been convicted of a violation of any provision of Chapter 115 of Title 18 of the United States Code, or any other crime involving loyalty to the United States? (Yes or No). If answer is "Yes," specify

22. (In the case of an individual claimant.) The undersigned states that he is the claimant herein; that he has read the foregoing statement of claim and each statement and exhibit attached thereto and knows the contents thereof; that the same is true to his own knowledge, except as to matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

Dated _____, 196____
(Signature or mark)

If by mark, two witnesses:

Name..... Address.....

Name..... Address.....

23. (For use in the case of a corporate or other entity claimant.) The undersigned states that he is the _____ (Title or Office) of the claimant herein; that he is duly authorized to sign and file this claim on behalf of the claimant; that he has read the foregoing statement of claimant and each statement and exhibit attached thereto and knows the contents thereof; that the same is true to his own knowledge, except as to matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

Dated _____, 196____
(Signature)

SEAL (If any; if none, so state).

EXHIBIT 19

SELECTED DECISIONS

CHINA CLAIMS PROGRAM

IN THE MATTER OF THE CLAIM OF CLARENCE BURTON DAY, ET AL.

Claim No. CN-0030—Decision No. CN-1

When claimants establish a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary and other evidence of probative value.

Sums already received by claimants on account of the same loss must be deducted by the Commission in determining the amount of a claim pursuant to Section 506 of the Act.

Pursuant to the principles of international law interest is a proper part of a loss sustained by claimant whose property has been taken by the Chinese Communist regime.

PROPOSED DECISION*

This claim against the Chinese Communist regime, under Title V of the International Claims Settlement Act of 1949, as amended, for \$760.05, is based upon the loss of personal property, consisting of household furnishings and personal effects, in Hangchow, province of Chekiang, China. Claimants, CLARENCE BURTON DAY and ETHELWYN C. DAY, have been nationals of the United States since their births on September 1, 1889 and January 9, 1893 respectively.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§ 1643-1643K (1964), as amended by 80 Stat. 1365 (1966)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

Claimants also filed a claim under the War Claims Act of 1948, as amended by Public Law 87-846 (Claim No. W-13368). In that claim, the Commission found that claimants were the joint owners of household furnishings and personal effects which were lost in Hangchow during World War II as a direct consequence of Japanese military operations of war and granted them

* This decision was entered as the Commission's final decision on Oct. 15, 1968.

awards each in the amount of \$384.75. That file has been associated with this claim for reference.

The Commission appreciates the fact that there may be instances wherein primary evidence in support of a claim may not be available due to its loss or destruction during ensuing years between the taking of claimants' property and the enactment of title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United States. In the absence of said decrees, laws and orders the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' loss of their property. Accordingly, when claimants have established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The evidence of record here does not include any copy of a Chinese Communist decree, law or order and the Commission agrees that such are unobtainable in this case. The record does include the affidavits of Roy S. Lautenschlauger, a member of the faculty of Hangchow University and Hsu Iching, a resident of the Hangchow University campus; written statements from The United Presbyterian Church in the United States of America, claimants' employer; and a list, dated August 14, 1951, comprising the claimed personal property items which had been forwarded to claimants' employer. The Commission deems such submitted evidence as sufficient in this case.

The Commission finds that claimants, while serving as missionaries in China under the auspices of The United Presbyterian Church in the United States of America, were stationed on the campus of Hangchow University, Chekiang, China; that they jointly owned certain personal property consisting of household furnishings and personal effects. The Commission further finds that the said personal property was taken by the Chinese Communist regime on March 5, 1951, the date on which claimant CLARENCE BURTON DAY was forced to evacuate his residence and abandon the personal property therein. Claimant was obligated to use a travel permit granted by the Chinese Communist regime for the express purpose of leaving China and was allowed to take with him only those possessions which he could carry. Claimant ETHELWYN C. DAY had left China in September 1949.

On August 14, 1951, claimants submitted to The United Presbyterian Church in the United States of America a list of their losses of personal property in China valued at \$2,502.30. The value was predicated upon figures from receipted bills and notebook records. The Commission finds that the personal property had a value in that amount. The record reflects that claimants received the sum of \$1,742.25 from The United Presbyterian Church in the United States of America on account of the same loss which is the subject matter of this claim.

Section 506 of the Act provides as follows:

"In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses."

In accordance with the foregoing section of the Act, the sum received by

claimants must be deducted from the amount of the loss sustained by claimants. Accordingly, the Commission finds that claimant CLARENCE BURTON DAY suffered a loss in the amount of \$380.03 and that claimant ETHELWYN C. DAY suffered a loss in the amount of \$380.02.

The question arises as to whether interest shall be included in losses for the nationalization or other taking of property by the Chinese Communist regime.

In similar claims of nationals of the United States against the Government of Cuba, also decided under title V of the International Claims Settlement Act of 1949, as amended, the Commission held that, pursuant to international law, interest should be included as a part of the certification and that such interest should be at the rate of 6% per annum from the date of loss to the date on which provision is made for the settlement of such claims. (See *Claim of Lisle Corporation*, Claim No. CU-6044.)

After full consideration of this issue, the Commission affirms its holding and concludes that in claims against the Chinese Communist regime under Title V of the International Claims Settlement Act of 1949, as amended, interest shall be included in the certification of losses.

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from March 5, 1951, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that CLARENCE BURTON DAY suffered a loss in the amount of Three Hundred Eighty Dollars and Three Cents (\$380.03) with interest thereon at 6% per annum from March 5, 1951 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended, and

The Commission certifies that ETHELWYN C. DAY suffered a loss in the amount of Three Hundred Eighty Dollars and Two Cents (\$380.02) with interest thereon at 6% per annum from March 5, 1951 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., September 11, 1968.

IN THE MATTER OF THE CLAIM OF ARTHUR B. COOLE, ET AL.

Claim No. CN-0040—Decision No. CN-2

Loss of control, use and enjoyment of real property as a result of physical occupation by Communist forces constitutes a taking of property by the Chinese Communist regime within the meaning of the Act.

PROPOSED DECISION*

This claim against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, for \$1,500.00, is based upon the loss of improved real property at Peitaiho Beach, Province of Hopei, China. Claimants, ARTHUR B. COOLE and ELLA F. COOLE,

* This decision was entered as the Commission's final decision on Oct. 15, 1968.

have been nationals of the United States since their births in 1900 and 1898 respectively.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 110 (1964) 22 U.S.C. §§ 1643-1643K (1964), as amended by 80 Stat. 1365 (1966)], the Commission is giving jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 national 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

Claimants also filed a claim under the War Claims Act of 1948, as amended by Public Law 87-846 (Claim No. W-13407). In that claim, the Commission found that claimants were the joint owners of household furnishings and personal effects of a summer house at Peitaiho Beach, Province of Hopei, China which were lost during World War II as a direct consequence of Japanese military operations of war and granted them awards each in the amount of \$415.00. That file has been associated with this claim for reference.

The Commission appreciates the fact that there may have been instances wherein primary evidence in support of a claim may not be available due to its loss or destruction during ensuing years between the taking of claimants' property and the enactment of title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United States. In the absence of said decrees, laws and orders the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' loss of their property. Accordingly, when claimants have established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The evidence of record here does not include any copy of a Chinese Communist decree, law or order and the Commission agrees that such are unobtainable in this case. The record does include the original title deed No. 75, registered at the American Consulate, Tientsin, China in 1935; a statement of the Board of Missions of the Methodist Church, claimants' employer; a statement of Wray H. Congdon, the former owner of the improved realty; original 1935 correspondence of the American Consul at Tientsin; map of

Peitaiho Beach; photographs and a floor plan sketch of the property. The Commission deems such submitted evidence as sufficient in this case.

Based on the entire record the Commission finds that claimants, ARTHUR B. COOLE and ELLA F. COOLE, missionaries in China from 1924 to 1949 under the auspices of the Board of Missions of the Methodist Church, were owners of a summer residence at Peitaiho Beach, Province of Hopei, China; subsequent to the termination of World War II in 1945 claimants were unable to return to Peitaiho Beach because of the presence of Chinese Communist forces in that area; on May 1, 1950 workers of the People's Republic of China occupied the properties at Peitaiho Beach, including claimants' premises, and continued to do so for several years to the exclusion of claimants. The Commission further finds that the occupation of the premises resulting in claimants' loss of control, use and enjoyment of their property constituted a taking of this property by the Chinese Communist regime within the meaning of title V of the Act and the claimant's property was taken on May 1, 1950.

The improved real property consisted of two one-story buildings, a house and servant quarters, on 2.18 mou of land (7176 square feet=1 mou). The buildings were constructed about 1930 and in 1936 claimants added two student rooms to the servant quarters. The buildings had rock foundations with brick walls. The land was surrounded on three sides by a two-foot-high rock wall which designated the boundary lines. One side faced the sea. The house had three bedrooms, kitchen, laundry, store-room, parlor-dining room, courtyard and front porch. The servant quarters were to the rear and contained four rooms including the aforementioned student rooms.

The Commission finds that the improved real property had a value of \$4,080.00 at the time of loss and that claimants, ARTHUR B. COOLE and ELLA F. COOLE, each suffered a loss in the amount of \$2,040.00

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0080.)

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimants as the extent thereof. (See *Claim of Eileen M. Smith*, Claim No. CU-3038.)

CERTIFICATION OF LOSS

The Commission certifies that ARTHUR B. COOLE suffered a loss in the amount of Two Thousand Forty Dollars (\$2,040.00) with interest therein at 6% per annum from May 1, 1950 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended, and

The Commission certifies that ELLA F. COOLE suffered a loss in the amount of Two Thousand Forty Dollars (\$2,040.00) with interest thereon at 6% per annum from May 1, 1950 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., September 11, 1968.

IN THE MATTER OF THE CLAIM OF CHINA MEDICAL BOARD OF
NEW YORK, INC.

Claim No. CN-0415—Decision No. CN-495

When warranted the Commission may take judicial notice of the fact that real property values have increased over the years. In other cases the determination of property values may require appropriate reductions on account of depreciation.

PROPOSED DECISION*

This claim against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$19,127,542.86 plus interest, is based upon the loss of certain real and personal property in Peking, China. Claimant, CHINA MEDICAL BOARD OF NEW YORK, INC., is a nonprofit New York corporation and a national of the United States within the meaning of title V of the Act.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

The record shows that claimant filed a claim under title II of the War Claims Act of 1948, as amended (76 Stat. 1107 (1962)), for losses sustained by its properties in Peking, China during World War II (Claim No. W-8376). In that claim the Commission found that claimant owned and operated all of the real and personal properties held and acquired by the Peking Union Medical College, hereafter referred to as PUMC. That institution operated a School of Medicine, a School of Nursing and a hospital at Peking, China. Claimant was granted an award for the following losses of real and personal properties as a result of military operations during World War II:

* This decision was entered as the Commission's Final Decision on August 20, 1970.

Buildings and Fixed Equipment	\$1,203,403.00
Movable Equipment	460,092.00
Damage to Landscaping and Grounds	2,000.00
Accessories	245,943.00
Radium	1,665.00
Supply Inventory	175,000.00
Total	\$2,088,103.00

That claim includes a substantial amount of evidence establishing that claimant owned the various items of real and personal property which were the subject of that war damage claim, and for the most part constitute the subject of the claim against the Chinese Communist regime. In addition, the evidence establishes the acquisition by claimant of other items of property after World War II, and the rehabilitation of the damages resulting from the war, discussed in detail hereafter.

PUMC consisted of an extensive area of land on which the following structures were situated, including appropriate equipment serving the purposes for which the structures were intended:

- Auditorium building
- Anatomy building
- Chemistry building
- Physiology and pharmacology building
- Private patients' building
- Administration building
- Surgical ward building
- Medical ward building
- Pathology building
- Out-patient building
- Admittance building
- Nurses' home
- Power house
- Animal house
- An industrial area including a refrigeration plant, storage space, garages, gas tanks, gas and chemical plants, machine shops, paint and print shops, carpentry shop, greenhouses, animal houses, dog kennels and related structures
- Director's residence
- Various dormitory buildings and residence compounds

In addition to the fixed equipment situated in the structures, such as boilers, generators, sanitation and sewage systems, incinerators, laundries, exhaust fans, refrigeration, network of electric and telephone lines, and related equipment, claimant maintained on the premises of PUMC the following miscellaneous supplies, accessories and equipment:

- A variety of glass and porcelain wares
- Hardware, such as burners, wooden and metal supports, clamps and related equipment
- Scientific apparatus and instruments, such as incubators, ovens, pumps, sterilizers, optical apparatus, heat and other lamps, hydrometers, thermometers, X-ray equipment, dental apparatus, ophthalmological equip-

ment, surgical equipment, surgical instruments and sundry other apparatus and equipment

Radium

Furniture and furnishings for offices and residences

As noted above, claimant received an award in the amount of \$2,088,103.00 for war damages sustained by its real and personal properties at PUMC. The record shows that after World War II claimant commenced the rehabilitation and restoration of its facilities at PUMC. In October 1947, a first-year medical class was admitted to the School of Medicine. By May 1948, the first postwar hospital ward of 25 beds was opened. The evidence establishes that as of December 1950, 80% of the war damages had been repaired, including the restoration of facilities and the acquisition of appurtenant personal properties.

Claimant states that its properties at PUMC were taken by the Chinese Communist regime on December 29, 1950. The record includes a copy of an extract from the New York Times of January 1, 1951. (See Exhibit E.) The extract, dated December 31, 1950, recites that certain American companies had been placed under military control "yesterday," and that said action followed an order "seizing missionary, medical, relief and cultural organizations." A copy of the extract from the North China Daily News of January 23, 1951 reports that on January 20, 1951, PUMC was formally taken. (See Exhibit F.) On the basis of the foregoing, and in the absence of evidence to the contrary, the Commission finds that PUMC was taken by the Chinese Communist regime on December 29, 1950. It is concluded that claimant thereby sustained a loss within the meaning of title V of the Act.

The sole remaining issue in the aggregate value of claimant's properties on the date of loss.

The act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Claimant has computed its claim on the basis of 1950 replacement costs, employing information obtained from the Bureau of Labor Statistics showing factors representing the increased costs of goods and construction from the respective dates of acquisition of the properties to the date of loss. The same theory was applied by claimant to determine the extent to which its properties were not repaired or restored after being damaged during World War II. Thus, claimant concluded that the unrepaired portion of its war damage (\$417,620.60 or 20% of \$2,088,103.00) should be increased by a factor of 2.15, representing the increase between 1941 and 1950. On that basis, claimant evaluated its unrepaired damaged properties in the amount of \$897,884.29.

Accordingly, claimant asserts the following losses:

Land		\$ 690,287.27
Buildings and Fixed Equipment	\$14,184,300.27	
Less Unrepaired Damages	734,469.34	13,449,830.93
<hr/>		
Movable Equipment and Supplies	3,150,839.61	
Less Unrepaired or Unreplaced Items	163,414.95	2,987,424.66
<hr/>		
Library		2,000,000.00
<hr/>		
Total		\$19,127,542.86

In addition to the evidence submitted in support of the war damage claim, the record includes extracts from claimant's books and records; historical reports and full descriptions of the properties; photographs of the properties taken prior to World War II; detailed reports concerning the structures that were erected on the land; a detailed affidavit from the former Director of PUMC concerning the values of the properties herein; a detailed appraisal of the library from a former member of the medical staff of PUMC who had served as Acting Hospital Superintendent, Acting Head of the Department of Medicine, Acting Director, and as a member for 17 years of the Library Committee of PUMC; and affidavits from other employees at PUMC with personal knowledge of the prewar and postwar conditions of the properties. The Commission notes from the evidence of record that immediately prior to World War II the buildings and items of personal property were insured for \$6,031,656.45, whereas the insurance in effect on the date of loss was \$7,200,000.00.

The Commission has held consistently that the statutory reference to "cost of replacement" means replacement in kind, taking into consideration the age and condition of the properties on the date of loss, and that all of the bases mentioned in Section 503(a) are merely standards for determining the value of property on the date of loss. (See *Claim of M & M Dredging & Construction Co., et al.*, Claim No. CU-0219.) Upon consideration of the entire record, the Commission finds that the valuations most appropriate to the properties herein and equitable to the claimant are those set forth below.

LAND

The record contains copies of original deeds pursuant to which the properties constituting PUMC were acquired from the Rockefeller Foundation. Initially, the land area was approximately 10 acres. (See China Medical Board, Eleventh Annual Report, January 1, 1925-December 31, 1925, Exhibit I.) Subsequently, additional land was acquired so that the total area was approximately 23½ acres. (See detailed affidavit of June 24, 1969 and accompanying schedules from Henry Spencer Houghton, former Director of PUMC, Exhibit J.)

Claimant's books and records disclose that as of June 30, 1941 the book value or cost of the land was \$295,838.87. However, \$286,801.93 of that amount represented purchases of land made prior to December 31, 1929, and \$9,036.94 represented additional acquisitions between 1930 and 1936. In effect, therefore, claimant's books show the cost of the land as of a date at least 21 years prior to December 9, 1950, the date of loss.

The Commission notes that land values in Peking, the capital of China, rose substantially between 1929 and 1950. The negligible amount of war damage to the landscaping and grounds, \$2,000.00, was substantially repaired after the war. Upon consideration of the entire record, the Commission finds that claimant's valuation of the land is fair and reasonable. Accordingly, the Commission finds that the value of claimant's land on December 29, 1950 was \$690,287.27.

BUILDINGS AND FIXED EQUIPMENT

The evidence includes an historical sketch and full descriptions of the various buildings of PUMC. (See Exhibit G, Reprinted from Addresses and Papers, Dedication Ceremonies and Medical Conference, Peking Union Medical College, September 15-21, 1921.) It appears that the medical school proper was opened in the fall of 1919. Dormitories and other related buildings were constructed in 1922 and in 1926. In September 1921 the new buildings of the Medical College and Hospital were completed. (See Exhibit I.)

The record clearly establishes that prior to December 31, 1929 the aggregate cost of the buildings and fixed equipment therein was \$6,004,409.89. It appears that the structures were maintained in excellent operating condition at all times. As a result of the addition of equipment and improvements to the structures, the aggregate book value of the buildings and fixed equipment as of June 30, 1941 was \$6,106,006.94. (See Schedule 5 accompanying Exhibit J.)

By the application of increased costs of construction and other cost indexes, claimant has computed the aggregate replacement cost of its buildings and fixed equipment as of the date of loss at \$14,184,300.27. From this amount claimant deducted the unrepaired war damages, likewise increased on the basis of the same cost indexes, to arrive at a 1950 net replacement cost of \$13,449,803.93, the amount being claimed for the loss of the buildings and fixed equipment.

As noted above, claimant's buildings and fixed equipment were damaged during World War II to the extent of \$1,203,403.00. These properties were rehabilitated after the war so that the damages were repaired to the extent of 80% at a cost of \$962,722.40. Therefore, the unrepaired damages had a value of \$240,680.60.

It appears from the evidence of record that the Japanese used PUMC as a hospital during World War II. A report as of September 22, 1945 recites that "The buildings structurally seem undamaged, but the whole property is filthy . . ." (See Exhibit No. 29 accompanying Claim No. W-8376.) A more comprehensive report made on October 25, 1945 states that "The buildings, thanks to sound construction, are essentially intact, except for Japanese architectural interior 'improvements' to kitchens and plumbing, etc. The plumbing I have had them tear out and restore . . . Power plant equipment and machines. A lot has been taken away . . . and the remainder all need repair . . ." (See Exhibit No. 31 accompanying Claim No. W-8376.)

That the buildings sustained insignificant damages during World War II is also supported by contemporary excerpts from letters accompanying the affidavit of July 1, 1969 from Mary E. Ferguson, former Registrar and Recorder for PUMC. (See attachments to Exhibit K.) Those excerpts disclose that washing, cleaning, removal of debris, painting and minor repairs or replacements were required after the Japanese left the premises of

PUMC. Repairs and/or replacements were also made to the refrigerating and power plants, the plumbing and heating systems, the electrical systems, and new roofing was installed as well as other necessary work. Mary E. Ferguson states that as of December 1950 most of the PUMC plant was in excellent condition.

The Commission notes that no new buildings were erected after the war. The buildings were those that had been built in the early 1920's for the most part. Therefore, the buildings were approximately 25 years of age on the date of loss, although they were maintained in excellent condition. Much of the fixed equipment had been replaced or repaired after the war. It is noted that on the date of loss the buildings, the fixed equipment, as well as all of the movable equipment and supplies on the premises of PUMC were insured for \$7,200,000.00.

Upon consideration of the entire record, the Commission finds no valid basis for evaluating the buildings and fixed equipment by applying the increased cost indexes suggested by claimant. Clearly, claimant's buildings and fixed equipment were subject to depreciation. Generally, the Commission has applied the annual rate of 2% as depreciation for structures. However, the record herein discloses that the structures were maintained in excellent condition and that substantial rehabilitation occurred after World War II. The Commission therefore concludes that it would be inequitable to apply any rate of depreciation to the structures. The Commission finds that the valuation most appropriate to the buildings and fixed equipment, and equitable to the claimant is the valuation of said properties as of June 30, 1941, as shown by claimant's books and records, diminished by the extent to which the World War II damages were not repaired. Since the June 30, 1941 value of the buildings and fixed equipment was \$6,106,006.94 and the unrepaired damages amounted to \$240,680.60, the Commission finds that the aggregate value of the buildings and fixed equipment of PUMC on December 29, 1950, the date of loss, was \$5,865,326.34.

MOVABLE EQUIPMENT AND SUPPLIES

The aggregate amount asserted on account of the loss of claimant's movable equipment and supplies, excluding the library, was \$2,987,424.66. Claimant computed that amount by the application of the same cost increase indexes as were employed with respect to the other properties herein, as noted above. This category of properties included such items as scientific apparatus and instruments, and surgical, dental and ophthalmological equipment and instruments, which were subject to obsolescence. Some of the other items in this category were expendable supplies, indicated by claimant to aggregate \$250,000.00 as of June 30, 1941, and to have a replacement cost of \$537,500.00 on the date of loss. All of the items in this category generally were subject to depreciation. Usually, the Commission has applied the annual rate of 5% as depreciation for such items of property.

On the basis of the entire record, the Commission finds no valid basis for applying the criteria suggested by claimant in determining the values of claimant's movable equipment and supplies, excluding the library, on the date of loss.

Claimant's records disclose that as of June 30, 1941, the book values of the said properties aggregated \$1,085,584.14. (See Schedule 5 accompanying Exhibit J.) In connection with claimant's war damage claim (W-8376), the Commission found that those properties were damaged in the aggregate

amount of \$882,700.00 representing \$460,092.00 for movable equipment, \$245,943.00 for accessories, \$1,665.00 for radium and \$175,000.00 for the inventory of supplies.

The record shows that those war damaged properties were rehabilitated to the extent of 80%, amounting to \$706,160.00, leaving the properties unrepaired or unreplaced to the extent of \$176,540.00. It appears therefore that out of the prewar aggregate, \$1,085,584.14, a portion thereof in the amount of \$202,884.14 represents properties that were not affected by the war so as to require rehabilitation.

Upon consideration of the entire record, the Commission concludes that the unaffected properties, having an aggregate value of \$202,884.14 as of June 30, 1941, should be depreciated at 5% per year for the 9½ year period ending on the date of loss. Accordingly, the Commission finds that the aggregate value of the said unaffected properties on December 29, 1950 was \$106,514.17.

With respect to the rehabilitated properties involving an expenditure of \$706,160.00, the record fails to disclose precisely when such rehabilitation to the extent of 80% was completed. It appears, however, that a first-year class in the School of Medicine was admitted in October 1947, and that the first postwar hospital ward of PUMC was opened by May 1948. Rehabilitation continued in 1948, 1949 and 1950. Affidavits from the former Director of PUMC (Exhibit J), and from other former employees of PUMC (Exhibits K and L) bear witness to the fact that by December 1950, 80% of the war damages sustained by the properties had been completed and to that extent the properties were in excellent condition. The record shows that this condition "was due to the policy of systematic replacement of equipment whenever required in order to maintain the highest standards of a modern medical and scientific institution." (See Exhibit J, page 17.)

On the basis of the entire record and in the absence of evidence to the contrary, the Commission concludes that no depreciation should be applied to the properties that had been so rehabilitated. Accordingly, the Commission finds that the repaired or replaced properties had an aggregate value of \$706,160.00 on December 29, 1950, the date of loss. Therefore, the aggregate value of claimant's movable equipment and supplies, excluding the library, had a value of \$812,674.17 on the date of loss.

LIBRARY

The record establishes that claimant maintained an extensive library at PUMC composed of medical textbooks and other related publications appropriate for the school of Medicine, School of Nursing and the Hospital of PUMC. The evidences includes 39 page affidavit, dated June 17, 1969, and supporting material, prepared by Chester North Frazier (Exhibit M). Dr. Frazier, a physician with many years of experience in the United States and abroad, had served in many important capacities at PUMC, including Acting Director of the entire institution, Acting Superintendent of the Hospital, and member of the Library Committee for 17 years, many years of which were in the capacity of Chairman. In such capacities, Dr. Frazier acquired considerable experience in evaluating the library at PUMC.

The record shows that the library sustained no damages during World War II. Among the many volumes in the library were "medical treatises, textbooks, complete sets of the world's leading medical periodicals, current periodicals, bound volumes of research papers written by PUMC personnel,

and the most complete collection in the world of books on Chinese classical medicine, many of them original manuscripts written by Chinese medical scholars during the last centuries." (See Exhibit M, p. 4) Dr. Frazier states that on the date of loss PUMC's library was by far the largest and most comprehensive library in the Far East.

It further appears that during World War II subscriptions to periodicals were continued, collected and stored in the United States. After the war these periodicals were shipped to PUMC; subscriptions were continued; new subscriptions were added; additional books were purchased; and gifts of medical books and periodicals were made to PUMC. During the postwar years, obsolete and duplicate books were disposed of, many of the books were rebound and the indexing and classification of the volumes was brought up to date.

In a detailed appraisal of PUMC's library, Dr. Frazier states that on the date of loss the library had a value of not less than \$2,000,000.00. Upon consideration of the entire record, the Commission finds that Dr. Frazier's valuation is fair and reasonable. Accordingly, the Commission finds that on December 29, 1950, the date of loss, claimant's library at PUMC had a value of \$2,000,000.00.

Claimant's losses within the meaning of title V of the Act are summarized as follows:

Land	\$ 690,287.27
Buildings and Fixed Equipment	5,865,326.34
Movable Equipment and Supplies	812,674.17
Library	2,000,000.00
Total:	\$9,368,287.78

The Commission has decided that in certification of losses on claims determined pursuant to title V of the International Claims Settlement Act 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 Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that the CHINA MEDICAL BOARD of NEW YORK, INC. suffered a loss in the amount of Nine Million Three Hundred Sixty-Eight Thousand Two Hundred Eighty-Seven Dollars and Seventy-Eight Cents (\$9,368,287.78) with interest thereon at 6% per annum from December 29, 1950 to the date of settlement, as a result of the actions of the Chinese Communist regime within the scope of Title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., and entered as the Proposed Decision of the Commission, June 30, 1970.

IN THE MATTER OF THE CLAIM OF FRANKLIN RUSSELL FETTE

Claim No. CN-0336—Decision No. CN-426

In certain areas of China where the recording of title to real property in the name of an American was prohibited, the execution of a mortgage on the property in favor of an American may evidence his beneficial ownership of the property.

PROPOSED DECISION*

This claim against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$64,092.00, is based upon the loss of certain real and personal property in Peiping, China. Claimant, FRANKLIN RUSSELL FETTE, has been a national of the United States since birth.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with substantive law, including international law, the amount and validity of claims by nationals of the United States against the Chinese Communist regime arising since October, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

The record shows that claimant owned a controlling stock interest in the Fette Rug Company, Federal Inc., U.S.A., a corporation organized under the China Trade Act of 1922. That corporation had been engaged in the manufacture and sale of rugs with offices at 8 Tung Tan Erh T'iao Hutung, Peiping, China, now known as Peking. Claimant and his parents, native born nationals of the United States who were also stockholders of that corporation, lived at 33 Hsi Tsung Pu Hutung. Upon dissolution of the corporation on April 2, 1948, the corporation's properties in China were transferred to claimant. Other items of property claimed herein were acquired by claimant either by gift from his parents or by inheritance upon their death in 1956 and 1959, respectively, claimant being their sole surviving heir.

The Commission appreciates the fact that there may be instances wherein primary evidence in support of a claim may not be available due to its loss or destruction during ensuing years between the taking of claimants' prop-

* This decision was entered as the Commission's Final Decision on July 10, 1970.

erty and the enactment of title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United States. In the absence of said decrees, laws and orders, the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' loss of their property. Accordingly, when claimants have established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The evidence includes letters from claimant and his father to the Department of State, dated in 1951 and 1946, respectively, concerning the property in question; copies of contemporary correspondence from China; copies of mortgages covering the real properties; and photographs of some of the buildings. The record also contains detailed lists of personal property; a copy of price list of items of Chinese furniture, dated July 22, 1941, issued by the dissolved corporation; and claimant's statements to the Commission concerning his claim.

On the basis of the entire record, the Commission finds that claimant owned certain items of real and personal property in Peiping, China, discussed in detail below. Claimant states that his properties were taken by the Chinese Communist regime in 1949 after gaining control of China. The record includes a copy of a letter, dated April 14, 1951, from the claimant's agent in China in which he relates that he repossessed claimant's real properties after World War II as well as nearly all of claimant's furniture and other household effects in Peiping, China. The agent adds that "due to the quick advance of the communists," he had to flee to Formosa. Based upon the foregoing and in the absence of evidence to the contrary, the Commission finds that claimant's properties in Peiping, China were taken by the Chinese Communist regime on October 1, 1949. It is concluded that claimant thereby sustained a loss within the meaning of title V of the Act.

Claimant asserts the following losses in Peiping, China:

Improved real property at 8 Tung Tan Erh T'iao Hutung	\$28,320.00
Improved property at 1 and 2 Tsai Yuan Tze	29,850.00
Personal property at 8 Tung Tan Erh T'iao Hutung	1,170.00
Personal property at 33 Hsi Tsung Pu Hutung	4,752.00
Total	<u>\$64,092.00</u>

IMPROVED REAL PROPERTY

1. 8 Tung Tan Erh T'iao Hutung

The record shows that in 1939 the Fette Rug Company, Federal Inc. U.S.A. purchased certain improved real property at 8 Tung Tan Erh T'iao Hutung, Peiping, China. Due to circumstances then existing in that area of China, title to the property could not be recorded in the name of an American national. Pursuant to a practice which therefore developed, title to the said property was recorded in the name of the claimant's Chinese agent, and a mortgage on the property was executed by said agent in favor of the corporation for the full value of the property.

On the basis of the entire record, the Commission finds that the corporation became the beneficial non-record owner of the property with the bare title residing in claimant's Chinese agent. Upon the dissolution of the corporation in 1948, claimant became the beneficial owner of the property.

The mortgage dated August 3, 1939, indicates that the value of the improved real property was \$14,160.00. Correspondence from the Chinese agent, dated September 10, 1948, discloses that the actual value of the property was twice the amount of the mortgage. Based upon the foregoing, the Commission finds that the value of the property on October 1, 1949 was \$28,320.00.

2. 1 and 2 Tsai Yuan Tze

The record shows that in 1937 claimant's father purchased certain improved real property at 1 and 2 Tsai Yuan Tze, Peiping, China. The circumstances then were similar to those existing in 1939 with respect to item 1 above. Accordingly, title to the property was recorded in the name of the same Chinese agent and a mortgage was executed by said agent in favor of claimant's father.

On August 3, 1939, the mortgage was transferred to claimant by his father, and simultaneously claimant entered into an agreement with the Chinese agent covering the exchange rate to be applied to the Chinese currency in which the mortgage was expressed.

Based upon the entire record, the Commission finds that claimant's father was the beneficial owner of the property, and that claimant acquired his interest on August 3, 1939.

The mortgage, dated January 5, 1937, indicates that the value of the property was 50,000.00 Chinese dollars. Pursuant to the agreement with the Chinese agent, dated August 3, 1939, the exchange rate was fixed at \$0.2985 per Chinese dollar, approximating the exchange rate prevailing on the date of the mortgage. As indicated above, the Chinese agent reported in his letter of September 10, 1948 that the actual value of the property was twice the amount of the mortgage. Applying the said exchange rate, the Commission finds that the value of the property on October 1, 1949 was \$29,850.00.

PERSONAL PROPERTY

Claimant has submitted detailed listings of the personal property maintained at 8 Tung Tan Erh T'iao Hutung and at 33 Hsi Tsung Pu Hutung, Peiping, China. The amounts thereof aggregate \$1,170.00 and \$4,752.00, respectively, representing personal property at the office of the dissolved corporation and at the home of the claimant.

On the basis of the entire record, the Commission finds that claimant owned said personal property. Upon comparison of the values set forth by claimant with the 1941 price list of similar items of personal property issued by the corporation, the Commission finds that claimant's valuations are fair and reasonable. The Commission therefore finds that the aggregate values of the personal property at 8 Tung Tan Erh T'iao Hutung and 33 Hsi Tsung Pu Hutung, Peiping, China, were \$1,170.00 and \$4,752.00 respectively.

Claimant's losses within the meaning of title V of the Act are summarized as follows:

<i>Item of Property</i>	<i>Amount</i>
Real property at 8 Tung Tan Erh T'iao Hutung	\$28,320.00
Personal property at above address	1,170.00
Real property at 1 and 2 Tsai Yuan Tze	29,850.00
Personal property at 33 Hsi Tsung Pu Hutung	4,752.00
Total	\$64,092.00

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that FRANKLIN RUSSELL FETTE suffered a loss in the amount of Sixty-Four Thousand Ninety-Two Dollars (\$64,092.00) with interest thereon at 6% per annum from October 1, 1949 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C. and entered as the Proposed Decision of the Commission, May 27, 1970.

IN THE MATTER OF THE CLAIM OF AMERICAN EXPRESS INTERNATIONAL BANKING CORPORATION

Claim No. CN-0340—Decision No. CN-489

The transfer of funds from the U.S. to China in consideration of allowing claimant's official and family to leave China after being detained for 5 years was not a voluntary transaction, but constituted a violation of international law and a taking of American property by the Chinese Communist regime.

PROPOSED DECISION*

This claim against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$122,034.22, is based upon the loss sustained by the American Express Company as the result of the liquidation of its branch office in Shanghai, China. Claimant, AMERICAN EXPRESS INTERNATIONAL BANKING CORPORATION is the successor in interest of the American Express Company.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with substantive law, including international law, the amount and validity of claims by nationals of the United States against the Chinese

* This decision was entered as the Commission's Final Decision on August 20, 1970.

Communist regime arising since October, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

Michael J. Fennimore, an authorized officer of claimant corporation certified that at all times between October 1, 1949 and the presentation of the claim more than 50 per centum of the outstanding capital stock of the American Express Company, a corporation organized under the laws of the State of New York, and of the AMERICAN EXPRESS INTERNATIONAL BANKING CORPORATION, a Connecticut corporation, was owned by nationals of the United States. Mr. Fennimore further stated that claimant corporation was known until February 15, 1968 as the American Express Company when its assets and liabilities were transferred to the AMERICAN EXPRESS INTERNATIONAL BANKING CORPORATION.

The Commission, therefore, finds that claimant and its predecessor, the American Express Company, have been nationals of the United States at all times pertinent to this claim within the meaning of Section 502(1)(B) of the Act.

Claimant states that the American Express Company had a branch office in Shanghai which was closed on September 10, 1949. At the time of closing of the office, certain deposits made prior to World War II in the old national Chinese currency remained unsettled, but since this currency had become completely worthless, no payment was made. The Chinese Communist authorities, however, requested that payments should, nevertheless be made on the basis of the arbitrary exchange rate of 20 prewar Chinese Yuan for \$1.00. Initially, the American Express Company declined to pay these deposits. In retaliation, the Communist authorities refused to grant an exit visa to William I. Orchard, former Assistant Manager in charge of the Shanghai office. Mr. Orchard and his family were thus prevented from leaving Shanghai and China for five years. On October 20, 1953, the United States Secretary of the Treasury issued a license for the transmittal of an amount of \$66,624 for the account of the Shanghai Commercial and Trust Company, providing that before payment were made, the holder of the account would be advised in writing by the American Express Company that Mr. Orchard and his family had arrived safely in Hong Kong. Mr. Orchard and his family arrived in

Hong Kong on October 18, 1954 and the amount of \$66,624.00 was paid over to the Shanghai bank.

The circumstances surrounding this transfer of funds from the United States clearly indicate that this transaction was made under duress and that the demand and threat constituted a violation of accepted principles of international law. It is concluded, therefore, that this transaction gave rise to a taking of American-owned property by the Chinese Communist regime within the meaning of title V of the Act.

Claimant further states that \$55,410.22 were paid to William I. Orchard and to other employees of the branch office in Shanghai for salaries and severance claims from October 1, 1949 through October 1954. The sums paid to William I. Orchard amounted to \$44,404.90, while \$11,005.32 were paid to other employees.

The evidence submitted in support of this portion of the claim indicates that the salaries in Shanghai were paid in local Chinese currency with the exception of an amount of \$5,836.72 paid to Mr. Orchard after his arrival in Hong Kong. The payments to the employees being the direct result of a voluntary liquidation of a business enterprise were made pursuant to local law and are not attributable to Chinese Communist action. With respect to the salary of the Assistant Manager, the following observation is appropriate: The Assistant Manager and his family were compelled to stay in Shanghai until 1954 and, while they were staying there, Mr. Orchard drew a salary. The payment of this salary and of the severance pay did not constitute a loss resulting from the nationalization, expropriation, or other taking of claimant's property in China inasmuch as no funds were subject to measures of nationalization or taking by the Chinese Communist regime.

Accordingly, the portion of the claim for salary, severance pay and payment of expenses is disallowed.

Consequently, claimant suffered a loss within the meaning of title V of the Act in the aggregate amount of \$66,624.00.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that AMERICAN EXPRESS INTERNATIONAL BANKING CORPORATION suffered a loss in the amount of Sixty-six Thousand Six Hundred Twenty-four Dollars (\$66,624.00) with interest thereon at 6% per annum from October 18, 1954 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C. and entered as the Proposed Decision of the Commission, June 30, 1970.

IN THE MATTER OF THE CLAIM OF IRENE McGLASHEN

Claim No. CN-0577—Decision No. CN-522

Untimely claim may be considered on its merits if it does not interfere with the orderly disposition of the timely filed claims.

PROPOSED DECISION*

This claim for \$125,000.00, against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, is based upon the loss of improved real property with certain personal property therein at Peitaiho, Province of Hopei, China.

Claimant, IRENE McGLASHEN, has been a national of the United States since her naturalization on September 3, 1946.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

The Commission's Regulations provide that claims under title V of the Act (China claims) shall be filed with the Commission on or before July 6, 1969; and further that any initial written indication of an intention to file a claim received be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period.

No claim was filed with this Commission by or on behalf of claimant within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning this asserted loss.

The Commission has held, however, that it will accept for consideration on their merits under title V of the Act filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See *Claim of John Korenda*, Claim No. CU-8255.)

The record consists of original deeds, receipts, pre and post World War II

* This decision was entered as the Commission's Final Decision on Nov. 19, 1971.

correspondence, affidavits and photographs. Based on the entire record the Commission finds that claimant, IRENE McGLASHEN, was the owner of improved real property with certain household furniture and effects therein at Peitaiho Beach, Hopei, China. The Commission had previously determined that owners of property in Peitaiho Beach had their property taken by the Chinese Communist regime on May 1, 1950. (See *Claim of Arthur B. Coole and Ella F. Coole*, reported herein.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

In determining the value of the subject property, the Commission has considered the description provided by claimant and in the deeds, the affidavits, the location of the property, photographs, and the value of other properties at Peitaiho Beach. The Commission finds that at the time of loss the real property, including the improvements, with the depreciation factor considered, and the 5.7 mous of land, with gardening and landscaping considered, had a value of \$85,000.00, and the personal property, including furniture, fixtures, and household and personal effects, a value of \$5,000.00. The Commission concludes that claimant sustained a loss, within the meaning of title V of the Act, in the total amount of \$90,000.00.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that IRENE McGASHEN sustained a loss, as a result of actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended, in the amount of Ninety Thousand Dollars (\$90,000.00) with interest thereon at 6% per annum from May 1, 1950 to the date of settlement.

Dated at Washington, D.C., October 20, 1971.

IN THE MATTER OF THE CLAIM OF ROSARY MISSION SOCIETY, INC.

Claim No. CN-0475—Decision No. CN-467

Claims against the Chinese Communist regime that arose prior to October 1, 1949 are outside the purview of Title V of the Act.

PROPOSED DECISION*

This claim for at least \$234,763.00, against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, was presented by ROSARY MISSION SOCIETY, INC. for the loss of claimant's real and personal property located at Kienow, Kienyang, Chungan, Sungai, Foochow and Pucheng, all in the province of Fukien, China and for the death of one of claimant's missionaries.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 643-643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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.

(b) . . . disability or death resulting from actions taken by or under the authority of the Chinese Communist regime.

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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest in such corporation or entity.

Claimant, ROSARY MISSION SOCIETY, INC., a nonprofit corporation, was incorporated under the laws of the State of New York in 1930. An officer of claimant corporation has certified that at all times pertinent to this claim more than 50 per centum of its members have been nationals of the United States. The Commission, therefore, holds that claimant qualifies as a national of the United States within the meaning of Section 502(1)(B) of the Act.

The Commission appreciates the fact that there may be instances wherein

* This decision was entered as the Commission's Final Decision on July 23, 1970.

primary evidence in support of a claim may not be available due to its loss or destruction during ensuing years between the taking of claimants' property and the enactment of title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China, claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United States. In the absence of said decrees, laws and orders, the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' loss of their property. Accordingly, when claimants have established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The evidence of record here does not disclose a specific Chinese Communist decree, law or order which shows the nationalization, confiscation, or other taking of claimant's property in Communist China and the Commission agrees that such evidence may be unobtainable in this case.

The record does include copies of a listing of the original deeds, a description of the type of improvements, affidavits, statements and publications of members of the claimant organization and photographs of the improvements.

Based on the entire record the Commission finds that claimant was engaged in operating churches, rectories, convents, schools and dispensaries at Kienow, Kienyang, Chungan, Sungki, Foochow and Pucheng, all in the Province of Fukien, China and owned certain land, buildings and personal property in the furtherance of said work. The Commission further finds that, in the absence of evidence to the contrary, claimant lost all use, control and enjoyment of its said properties on October 1, 1949, the date on which the Chinese Communist regime was proclaimed and the initial date of the period encompassed under title V.

The Commission, in determining the value of the property, has considered the affidavit of Rev. Paul B. Fu, O.P. and the statements of Rev. Richard E. Vahey, O.P., the Secretary-Treasurer of the claimant corporation, photographs, and the values of comparable mission properties in other claims of nonprofit organizations in the China program. It finds that at the time of loss the real property with certain personal property necessary to the function of the improvements had a total value of \$234,763.00.

A part of this claim is based upon a loss due to the death of one of claimant's missionaries. Claimant's records state the Rev. James L. Devine, O.P. had been captured on May 15, 1947 by a band of Chinese Communist guerrillas and that he was killed by them on May 23, 1947.

From the foregoing it is clear that said death happened at a time prior to October 1, 1949, the initial date of coverage for losses arising under 503(b) of title V of the Act. Accordingly, the Commission is constrained to deny this part of the claim.

The Commission concludes that claimant suffered a loss, within the meaning of title V, in the amount of \$234,763.00.

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 *Claim of Clarence*

Burton Day and Ethelwyn C. Day, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that the ROSARY MISSION SOCIETY, INC. suffered a loss in the amount of Two Hundred Thirty-Four Thousand Seven Hundred Sixty-Three Dollars (\$234,763.00) with interest thereon at 6% per annum from October 1, 1949 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 17, 1970.

IN THE MATTER OF THE CLAIM OF MISSIONARY SISTERS OF THE IMMACULATE CONCEPTION

Claim No. CN-0361—Decision No. CN-390

Failure to establish that claimant qualifies as a national of the United States justifies a denial of the claim under Title V of the Act.

PROPOSED DECISION*

This claim for \$326,627.29 against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of improved real property and certain personal property therein in the Provinces of Shantung and Hopeh, China. The improvements consist of orphanages, a middle school, and a hospital.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 643-643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 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.

Section 502(1) of the Act defines the term "national of the United States" as "... (B) a corporation or other legal entity which is organized under the

* This decision was entered as the Commission's Final Decision on June 8, 1970.

laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity . . ."

Claimant asserts that it is the owner of the properties which constitute this claim.

Claimant, MISSIONARY SISTERS OF THE IMMACULATE CONCEPTION, was incorporated in the State of New Jersey in 1898. The President of claimant has stated that the asserted time of loss (1950) approximately 21% of its members were nationals of the United States and at the time of filing this claim (1969) approximately 22% of its members were nationals of the United States.

From the foregoing, it is clear that the property upon which this claim is based was not owned by a corporation which qualifies as a national of the United States in that 50 per centum or more of its members were not nationals of the United States at the time of loss and continuously thereafter until the date of filing the claim, as is required under the provisions of section 502(1) (B) of title V of the Act.

The Commission finds that this is not a claim of a national of the United States, and, accordingly, it is constrained to deny it.

The Commission finds it unnecessary to make other determinations with respect to this claim.

Dated at Washington, D.C., May 6, 1970

IN THE MATTER OF THE CLAIM OF GENERAL ELECTRIC COMPANY

Claim No. CN-0292—Decision No. CN-475

For the purpose of Title V of the Act, appraisals of properties tied to artificial gold values may be disregarded since they do not represent the true values of the properties.

PROPOSED DECISION*

This claim against the Chinese Communist regime under title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$4,584,359.00, is based upon the asserted loss of real and personal property sustained by claimant's predecessors in interest in various cities in China.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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.

* This decision was entered as the Commission's Final Decision on July 23, 1970.

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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record shows that GENERAL ELECTRIC COMPANY was organized in 1892 and is existing under the laws of the State of New York. An authorized officer of claimant corporation certified that at all times between December 31, 1950 and the presentation of the claim more than 50 per centum of the outstanding capital stock of the corporation was owned by persons who were United States nationals. The Commission, therefore, finds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The claim is asserted for the loss of property owned at the time of the loss of four affiliated corporations:

- (1) Andersen, Meyer & Company, Limited (Delaware)
- (2) Andersen, Meyer & Company, Limited (Maryland)
- (3) China General Edison Company, Inc.
- (4) International General Electric Company, Inc.

Subsequently, the claims for the losses were either assigned by the above affiliated companies to claimant corporation or claimant became the owner of the claim as a result of a merger with one of the affiliated companies. The origin and amounts of the claims are discussed below in the same order as stated above.

(1) Andersen, Meyer & Company, Limited (Delaware)

Andersen, Meyer & Company, Limited (Delaware), now dissolved, was a corporation organized prior to World War II under the laws of the State of Delaware. The company was engaged in manufacturing steel products, railway equipment, motor truck bodies, electric machines and appliances, switches, and metal products. It had its head office in Shanghai, and branch offices and warehouses in Canton, Hankow, Peking and Tientsin.

Claimant states that the property of this company was taken by the Chinese Communist regime in 1950 when the record showed that 63,930 shares out of 76,000 outstanding shares of common stock and 3,199 shares out of 4,149 outstanding preferred shares were owned by International General Electric Company, Inc., a wholly owned subsidiary of GENERAL ELECTRIC COMPANY, the claimant herein.

The record further shows that, generally, American-owned business prop-

erty in China was placed under the management of Communist Chinese military authorities by the end of the year 1950. The Commission appreciates the fact that there may be instances wherein primary evidence in support of a claim may not be available due to its loss or destruction during the ensuing years between the taking of the property and the enactment of Title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United States. In the absence of said decrees, laws and orders, the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' losses of their interests. Accordingly, when claimant has established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The evidence of record does not disclose a specific Chinese decree, law or order which shows the nationalization, confiscation or taking of the property of Andersen, Meyer & Company, Limited (Delaware) in Communist China and the Commission agrees that such evidence may be unobtainable in this case. The Commission, however, is in the possession of records which show that the placement of American-owned industrial property, such as the property involved here, constituted to all intents and purposes a taking of such property within the meaning of title V of the International Claims Settlement Act of 1949, as amended. Accordingly, it is concluded that the property of Andersen, Meyer & Company, Limited (Delaware) was taken by the Chinese Communist regime on or about December 31, 1950.

It is noted that the claim of Andersen, Meyer & Company, Limited (Delaware) was transferred in its entirety to claimant corporation by an assignment executed on October 25, 1961, following the dissolution of the affiliated corporation.

Claimant states and the Commission finds that the property of Andersen, Meyer & Company, Limited (Delaware) included real estate holdings in Shanghai, Canton, Hankow, Peking and Tientsin; machinery and equipment in the manufacturing plant in Shanghai; and a 33.29% stockholders' interest in China Car & Foundry Company, Limited, a British corporation, which manufactured railroad cars and steel products in Shanghai.

In support of the value of the real estate holdings in Shanghai, claimant submitted the copy of an appraisal made by J. S. Potter, a real estate expert of Shanghai. Mr. Potter in his Memorandum of May 26, 1947 stated that land in Shanghai, such as the land of Andersen, Meyer & Company, Limited, situated at Yangtzepoo Road, measuring 26.335 mou, had a value of U.S. \$212,500.00 but in the claim, claimant reduced the value to \$ 124,000.00. Claimant follows Mr. Potter's appraisal for the buildings erected on the land, stating that they had a value of 605,500.00. Claimant obtained independent appraisals for the value of three pieces of improved real property in Canton, amounting to 75,230.00. Mr. Potter appraised land measuring 33.12 mou in Hankow at \$96,500.00 but in the claim, claimant reduced this value to 70,392.00.

Claimant followed Mr. Potter's appraisal of the buildings stating that they had a value of	146,000.00
H. J. Tung, an architect, appraised three pieces of improved real property in Peking in the amount of	39,900.00
Mr. Potter appraised land measuring 15.169 mou in Tientsin at \$125,000.00 but in the claim, claimant reduced this value to	73,000.00
Claimant followed Mr. Potter's appraisal of the buildings on the land in Tientsin stating that they had a value of	496,000.00
Claimant asserts that at the time of taking the personal property (machinery, equipment, vehicles, etc.) in the factory and in the warehouses had a value of	\$ 143,360.00
Total	\$1,773,382.00
Less depreciation relating to the above property	-\$ 59,262.00
Loss of tangible assets	\$1,714,120.00
Plus Investments in China Car & Foundry Company, Lt.	\$ 104,760.00
Total Amount of Claim for Property of Andersen, Meyer & Company, Limited (Delaware)	\$1,818,880.00

It should be noted that claimant reduced the value for the land appraised by Mr. Potter for the reason that his appraisals were based on a gold standard at the ratio of \$60.00 and \$40.00 per ounce of gold. Claimant adjusted the figures to reflect the proper ratio of \$35.00 per ounce of gold.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

In evaluating the real estate holdings, the Commission notes that the values recited by Mr. Potter and Mr. Tung were not included in a balance sheet of September 30, 1950 of Andersen, Meyer & Company, Limited (Delaware). In that balance sheet the entire land was entered in the amount of \$399,865.91, and the value of the improvements in the amount of \$530,422.49. It is understood that the values entered for the improvements may be the result of depreciation write-offs, as evidenced by an account named "Reserve for Depreciation" in the amount of \$597,265.92. The Commission is aware of the fact that in some instances the value of fixed assets may have been reduced in balance sheets below the actual market value of such assets, and that adjustments might be necessary to arrive at the true value of the properties. In this instance, however, the appraisals made by Messrs. Potter and Tung appear to be grossly exaggerated inasmuch as they appear to be tied to an artificial gold value not only for the land, but also for the improvements.

Based upon the record, including information obtained from various sources on the value on industrial real property in China, the Commission finds that, at the time of taking, the land in question was worth, as stated in the balance sheet \$ 399,865.91
and that the buildings had an aggregate value of \$ 742,591.43

(or 40% above the balance sheet value), together \$1,142,457.34

The Commission further finds that the machinery, equipment, motor vehicles, etc. were worth as stated in the balance sheet. \$ 141,829.44

Sub-total \$1,284,286.78

The Commission further finds that in 1950 Andersen, Meyer & Company, Limited (Delaware) was the owner of 3,329 shares out of 10,000 outstanding shares of stock of China Car & Foundry Company, Limited, a corporation organized in 1931 in Hong Kong. In 1947 the company's assets were appraised by J. H. Whittle, Chief Accountant of International General Electric Company, Inc. in the amount of \$428,578.00. By 1950 these assets were reduced to \$314,690.00. There were no liabilities, and the Commission concludes that the 33.29% interest of Andersen, Meyer & Company, Limited (Delaware) amounted to \$ 104,760.00

Claimant, as assignee of Andersen, Meyer & Company, Limited (Delaware) and present shareholder of 3,329 shares of China Car & Foundry Company, Limited has, therefore, sustained a loss of \$1,389,046.78

(2) *Andersen, Meyer & Company, Limited (Maryland)*

Andersen, Meyer & Company, Limited (Maryland), now dissolved, was a corporation organized in 1945 under the laws of the State of Maryland. The company was engaged in the distribution of goods manufactured by Andersen, Meyer & Company, Limited (Delaware), and had its principal office in Shanghai. An officer of claimant corporation certified that in and subsequent to October 1949 to the date of its dissolution International General Electric Company, Inc., a wholly owned subsidiary of claimant corporation, owned more than 50% of all the outstanding stock of Andersen, Meyer & Company, Limited (Maryland). At the time of dissolution in 1961, claimant corporation owned 100% of the outstanding stock of that corporation. Although the Delaware and Maryland corporations were separate legal entities, they were generally known simply as Andersen, Meyer.

All the circumstances surrounding this claim indicate that the property of the two Andersen, Meyer corporations was taken at the same time. The Commission, therefore, finds that the property of the Maryland corporation was also taken by the Chinese Communist regime on December 31, 1950.

It is noted that the claim of Andersen, Meyer & Company, Limited (Maryland) was transferred in its entirety to claimant corporation by an assignment duly executed on November 22, 1961, following the dissolution of the affiliated corporation.

Claimant states that the property of Andersen, Meyer & Company, Limited (Maryland) consisted of the following:

Current Assets	\$2,705,057
Other Assets	7,559
Fixed Assets, revalued	82,318
Unbooked Items (excludable)	\$ (11,267)
	<hr/>
	\$2,783,667

LESS:

Liabilities	\$442,577	
Except intracompany debts	- 1,166	\$441,411

Reserves for valuation of merchandise	889,575	
Bad Debts	\$ 50,534	-\$1,381,520
	<hr/>	<hr/>
Net Loss		\$1,402,147

In addition, claimant states that an additional loss was incurred as a result of the purchase of certain personal property (furniture and household goods) from a former employee, P. M. Markert, which was subsequently taken by the Chinese Communists

\$ 5,621

The total loss is listed in the amount of \$1,407,768

Using the above-described methods of evaluation, the Commission finds, on the basis of the balance sheet of November 30, 1950, that Andersen, Meyer & Company sustained a loss, as follows:

Current Assets	\$2,705,057.16
Other Assets (Deferred Charp	7,559.02
Fixed Assets at Book Value	\$ 69,668.75
	<hr/>
Total:	\$2,782,284.93
Less: Depreciation Reserve	-\$ 889,575.15
	<hr/>
Net Loss:	\$1,892,709.78

and the Commission finds that claimant, as assignee of Andersen, Meyer & Company, Limited (Maryland) has sustained a loss in that amount.

With respect to the property formerly owned by P. M. Markert, the Commission finds that on October 2, 1950, International General Electric Company, Inc. became the owner of the personal property (furniture, household goods, etc.) owned by Mr. Markert in Shanghai, which property was taken by the Chinese Communist regime along with other property of Anderson, Meyer & Company, Limited (Maryland) on December 31, 1950. The Commission further finds that this property had a value of \$5,621.00 at the time of taking and that claimant, as successor in interest of its wholly owned subsidiary, International General Electric Company, Inc., suffered an additional loss in that amount. The total loss in connection with property owned by Andersen, Meyer & Company, Limited (Maryland) and with property owned by its executive, Mr. P. M. Markert, amounts, therefore, to \$1,898,330.78.

(3) *China General Edison Company, Inc.*

China General Edison Company, Inc., now dissolved, was a corporation organized in 1917 under the laws of the State of New York. The company was engaged in the manufacture and sale of incandescent and fluorescent lamps in China and had its manufacturing plant in Shanghai. An officer of claimant corporation certified that on and subsequent to October 1, 1949 to the date of its dissolution GENERAL ELECTRIC COMPANY owned more than 50 per centum of all the outstanding stock of China General Edison Company, Inc.

All the circumstances surrounding this claim indicate that the property of China General Edison Company, Inc. was taken by the Chinese Communist regime at the same time as the property described above under (1) and (2). The Commission, therefore, finds that such property was taken on December 31, 1950.

It is noted that the claim of China General Edison Company, Inc. was transferred in its entirety to claimant corporation by an assignment executed on July 17, 1962.

Claimant states that the property of China General Edison Company, Inc. consisted of the following, and that its value was as stated below:

Manufacturing Plant, value adjusted	\$ 880,041
Current Assets	172,949
Deferred Assets	\$ 2,587
	<hr/>
	\$1,055,577

LESS:

Current Liabilities	\$67,013
Except Intracompany Liabilities	- 32,822

	<hr/>	\$34,191	
Inventories Reserves	5,111		
Bad Debts Reserves	280		
Lamp Stock Reserves	489		
Re-evaluation of Inventories	\$ 1,746	\$	41,817
	<hr/>		
Net Loss			<hr/>
			\$1,013,760

A balance sheet of September 30, 1950 of the China General Edison Company, Inc., submitted by the claimant, shows the following values:

Manufacturing Plant	\$581,512.91
Current Assets	175,184.10
Deferred Assets (Prepaid Insurance and Other Prepayments)	\$ 2,586.60
	<hr/>
	\$759,283.61

Less: Liabilities	\$34,190.85
Reserves for Depreciation on Bad Debts	\$ 7,627.05
	<hr/>
	-\$ 41,817.90

Net Loss:	<hr/>
	\$717,465.71

Claimant states that the value for the manufacturing plant was entered in the balance sheet at cost in the amount of \$581,512.91 and that its true

value at the time of taking was considerably higher. To support this statement, claimant alleges that the land alone consisted of 54,606 mou (or 9.101 acres) in a highly industrialized sector of Shanghai and that, according to appraisals made in 1947 for two contiguous lots, the value of the land alone amounted to \$214,455.00. The said appraisals are on record with the Commission in the claim filed by the claimant in Claim No. W-8612 under the War Claims Act of 1948, as amended by Public Law 87-846. Claimant also alleges that the buildings of the manufacturing plant had a value of at least \$144,860.00 (after a 30% depreciation write-off), and that the machinery and equipment in the factory and the motor vehicles were worth, after depreciation, \$520,726.00. The total value of the manufacturing plant should, therefore, be based upon the amount of \$880,041.00 and not upon the balance sheet figure of \$581,512.91.

Using the methods of valuation described previously, including information concerning values of land and buildings in industrial sections of Shanghai, the Commission finds that China General Edison Company, Inc. has sustained the following losses:

Land (lot No. 2521 measuring 54.606 mou)	\$210,000.00
Buildings and Structures	140,000.00
Machinery, Equipment, Automobiles, etc.	400,000.00
Current Assets	175,184.00
Deferred Assets	2,587.00
Total:	<hr/> \$927,771.00

(4) *International General Electric Company, Inc.*

International General Electric Company, Inc. was incorporated in 1919 under the laws of the State of New York. On July 31, 1952 International General Electric Company, Inc. merged with claimant corporation and up to the present time operates as a division of GENERAL ELECTRIC COMPANY. It was continuously a 100% subsidiary of claimant corporation and from the date of incorporation to the date of its merger, GENERAL ELECTRIC COMPANY owned all of the outstanding capital stock of International General Electric Company, Inc.

The property of International General Electric Company, Inc. in China consisted of two lots numbered 2332 and 2348 containing together 81.886 mou (or 13.648 acres) of industrial land in the immediate vicinity of lot No. 2521 owned by China General Edison Company, Inc., described above under (3).

This property was confiscated by the Chinese Communist regime under the same circumstances as the property of China General Edison Company, Inc. and the Commission finds that it was taken by that regime on December 31, 1950.

Claimant states that the land had a value of \$321,600.00. The Commission finds that, in view of the value established by the Commission in this Proposed Decision for lot No. 2521, lots Nos. 2332 and 2348 at the time of taking were worth \$315,000.00, which also includes the value of a wall standing along the property.

Claimant further states that in 1951 International General Electric Company, Inc. reimbursed losses of personal property (furniture, household goods, etc.) of four employees of claimant's subsidiaries in China:

R. C. Fallow	\$ 3,500
C. V. Schelke	1,561
C. E. Krause	6,975
J. J. Mokrejs	4,015
	<hr/>
	\$16,051

The record shows that the four above-named employees were United States nationals and that they assigned their claims for the loss of their property against China to claimant corporation by assignments dated May 4, 1968, October 21, 1968, November 30, 1968 and January 10, 1969, respectively.

The Commission, therefore, concludes that claimant corporation as successor in interest of International General Electric Company, Inc. suffered an additional loss of \$16,051.00 and that the entire loss sustained in connection with the property of International General Electric Company, Inc., and with reimbursements paid by that company for the property of employees of subsidiaries, amounted to \$331,051.00.

SUMMARY

Summarizing, claimant corporation suffered the following losses within the meaning of title V of the Act:

<i>Affiliated Company That Sustained the Loss</i>	<i>Amount of Loss</i>
1. Andersen, Meyer & Company, Limited (Delaware)	\$1,389,046.78
2. Andersen, Meyer & Company, Limited (Maryland)	1,898,330.78
3. China General Edison Company, Inc.	927,771.00
4. International General Electric Company, Inc.	\$ 331,051.00
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TOTAL	\$4,546,199.56

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 *Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

It should be noted that the Commission, in evaluating the net loss of the companies, has not deducted the liabilities because it is assumed that the companies are still responsible for the indebtedness incurred prior to the loss.

CERTIFICATION OF LOSS

The Commission certifies that GENERAL ELECTRIC COMPANY suffered a loss in the amount of Four Million Five Hundred Forty-Six Thousand One Hundred Ninety-nine Dollars and Fifty-six Cents (\$4,546,199.56) with interest thereon at 6% per annum from December 31, 1950 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 17, 1970.

IN THE MATTER OF THE CLAIM OF UNITED BOARD FOR CHRISTIAN
HIGHER EDUCATION IN ASIA

Claim No. CN-0401—Decision No. CN-494

In the course of evaluating properties for the purposes of Title V of the Act, the Commission may consider, inter alia, the values of comparable properties in China.

PROPOSED DECISION*

This claim for at least \$21,825,557.00 against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, was presented by UNITED BOARD FOR CHRISTIAN HIGHER EDUCATION IN ASIA for the loss of claimant's real and personal property located at nine universities and colleges in various cities of China.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened or taken by the Chinese Communist regime.

Claimant, UNITED BOARD FOR CHRISTIAN HIGHER EDUCATION IN ASIA, also filed a claim under the War Claims Act of 1948, as amended by Public Law 87-846 (Claim No. W-18034). In that claim the Commission found that claimant was the owner of certain real and personal property which was damaged and lost respectively as a result of Japanese military operations of war at the University of Nanking, Ginling College, Yenching University, Fukien Christian University, Hwa Nan College, Hangchow University and Huachung University, all in China. It granted an award in the amount of \$1,153,505.21 for damages done to the improvements and \$2,310,873.65 for loss of personal property. The Commission also determined that claimant owned the property of West China Union University but no claim was filed since there were no war losses.

* This decision was entered as the Commission's Final Decision on August 20, 1970.

In the present China claim claimant now seeks the value of the building lots at the seven aforementioned sites; the value of the restored buildings thereon and the personal property therein that was acquired since World War II. In addition, claimant seeks the value of improved real property therein at West China Union University and at Shantung Christian University (Cheeloo). The W-18034 file has been associated with the present claim for reference.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

Claimant, UNITED BOARD FOR CHRISTIAN HIGHER EDUCATION IN ASIA, was incorporated under the laws of the State of New York on May 18, 1945, as the United Board of Christian Colleges in China; subsequently that the title was changed through appropriate amendments of the charter and on January 27, 1956, claimant acquired its present legal title. The formation of the United Board for Christian Colleges in China on May 18, 1945, resulted from the consolidation of six Christian colleges and universities in China, all of which were incorporated under the laws of the State of New York on the following dates:

1. Trustees of Yenching University, June 25, 1890;
2. University of Nanking, September 21, 1934;
3. Fukien Christian University, October 18, 1934.
4. Board of Founders, Ginling College, January 25, 1935;
5. The Woman's College of South China (Hwa Nan), September 21, 1934;
6. West China Union University, October 18, 1934;

Claimant's predecessors in interest, Hangchow University and Huachung University, were incorporated under the laws of the District of Columbia and the State of New York on November 27, 1920 and November 2, 1935, respectively. In 1950 Hangchow University and in 1947 Huachung University entered into separate agreements with claimant herein and merged with United Board for Christian Colleges in China.

Shantung Christian University (Cheeloo) was owned by a Canadian corporation incorporated by act of Parliament of the Dominion of Canada on July 10, 1924. On or about November 26, 1945 the Cheeloo property was conveyed to claimant.

An official of claimant corporation has certified that from the date of incorporation to the date of filing with the Commission more than 50% of claimant corporation's members and those of its predecessors were nationals of the United States. The Commission, therefore, holds that claimant qualifies as a national of the United States within the meaning of Section 502(1)(B) of the Act.

The Commission appreciates the fact that there may be instances wherein primary evidence in support of a claim may not be available due to its loss or destruction during ensuing years between the taking of claimants' property and the enactment of title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China, claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there

was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United States. In the absence of said decrees, laws and orders, the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' loss of their property. Accordingly, when claimants have established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The record includes annual reports for the years 1945 to 1949 inclusive; histories in book form on most of the nine subject facilities; affidavits of claimant's finance officers and former administrators at some of the facilities; photographs and land sketches of some of the institutions; descriptions of the improvements and a 1951 statement of claimant's former associate treasurer listing the improvements, type of construction and the estimated 1951 replacement value of the buildings.

Based on the entire record, including the evidence submitted in the aforementioned W-18034 claim, the Commission finds that claimant while engaged in the field of higher education operated and owned nine education facilities which consisted of the grounds and buildings together with the furniture, furnishings, equipment, books, scientific apparatus and other personal property therein. The nine facilities were known as:

1. University of Nanking
2. Ginling College
3. Yenching University
4. Fukien Christian University
5. Hwa Nan College
6. Hangchow University
7. Huachung University
8. West China Union University
9. Shantung Christian University

The Commission further finds that it appears the subject institutions were nationalized or otherwise taken by the Chinese Communist regime at different dates, yet for the purpose of this decision, the improved real property and personal property is deemed to have been taken when the teaching staff was finally forced to leave the campuses and all control over the institutions and their teaching policies rested in the hands of the Chinese Communist regime, namely, February 12, 1951.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The Commission has considered the 1951 compilation of the properties made by Henry P. Seaman, the then Associate Treasurer of claimant, in which he lists the buildings and other structures at all the subject colleges; the description of the type of construction and his estimated re-

placement value in 1951. It has also considered the affidavit of James A. Cameron, the Associated Treasurer of claimant, who has been associated with claimant since 1934 and the affidavit of William P. Fenn, the General Secretary of claimant, who has been associated with claimant since 1932. The Commission has also considered the values of comparable properties in China owned by other non-profit organizations which have appeared before the Commission. It finds that, at the time of loss, the properties had a value as follows:

University of Nanking

The University of Nanking was located in the city of Nanking, capital of the Province of Kiangsu. The campus was located near the center of the northern half of the city, lying near the main north-south avenue, and contiguous to the chief area of residential development. The campus consisted of some 80 acres. In addition, there were some 67 acres of mulberry orchards in various section of the city and on farms outside the city as well as some 350 acres of forestry plots and nurseries located on Tsinglung mountain some ten miles southeast of the city. There were some 130 buildings and structures on the campus.

land (497 acres)	\$ 500,000.00
buildings	807,200.00
personal property	1,150,000.00
Total	\$2,457,200.00

Ginling College

Ginling College was a college for women. Its grounds lay to the west and south of the University of Nanking, the nearby college for men, Nanking, Province of Kiangsu, China. Nanking had a population in 1951 of over 1,000,000.

The total area of the Ginling campus was some 30 acres. There were some 20 principal buildings and several smaller structures. The college was smaller than most of the other subject colleges yet the interior finish of the buildings was made of teak, rosewood and oak. The architecture was Oriental.

land (30 acres)	\$ 90,000.00
buildings	1,227,080.00
personal property	387,952.00
Total	\$1,705,032.00

Yenching University

Yenching University, popularly known as Peking University, was located some five miles northwest of the municipality of Peking. It is described as the largest, most strategically located, best equipped and in many respects the most beautiful of the subject properties. The campus occupied about 120 acres and was improved with some 155 buildings. On the campus was a ten acre lake with a central island on which stood an octagonal pavilion. On the border of the lake was a thirteen story structure, replica of an

ancient pagoda, which served as a water tower. The style of all structures was adopted from Chinese architecture.

land (120 acres)	\$ 500,000.00
buildings	5,910,662.00
personal property	2,200,000.00
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Total	\$8,610,662.00

Fukien Christian University

Fukien Christian University was located at Foochow, Province of Fukien. The campus, consisting of 60 acres with 35 principal buildings, was on the north bank of the Min River, some ten miles below the city of Foochow. The two major buildings were the Gardiner Hall Jr. Memorial Arts building and the Edwin C. Jones Memorial Science building. Experimental farms were part of the campus.

land (60 acres)	\$ 120,000.00
buildings (including some equipment)	1,149,600.00
personal property	545,000.00
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Total	\$1,814,600.00

Hwa Nan College

Hwa Nan College was located at Foochow, Province of Fukien, China. The campus, consisting of 25 acres with eleven improvements, was on an elevation of ground on Nontai Island in the Min River.

land (25 acres)	\$ 75,000.00
buildings (including some equipment)	282,000.00
personal property	250,000.00
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Total	\$607,000.00

Hangchow University

Hangchow University was located about six miles from the city of Hangchow, Province of Chekiang, China. Hangchow had a population over 700,000. The campus consisted of 100 acres of land set in the hills on the Ch'ien T'ang River. There were some 34 buildings consisting of dormitories, faculty residences, library, science halls, chapel, gym, classrooms and observatory. The buildings were constructed of brick and/or cement and/or stone with tile or iron roofs and 1,2,3 and/or four stories.

land (100 acres)	\$ 100,000.00
buildings	734,500.00
personal property	350,000.00
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Total	\$1,184,500.00

Huachung University

Huachung University was located at Wuchang, Province of Hupeh. The

University campus was located on the Yangtze River, across from and west of the city of Hankow. It consisted of some 40 acres with approximately 25 buildings. The University had been in operation since 1924.

land (40 acres)	\$140,000.00
buildings (including some equipment)	318,400.00
personal property	225,000.00

Total	\$683,400.00
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West China Union University

West China Union University was located immediately south of the city wall of Chengtu and the Min River, which flowed between that wall and the campus, Chengtu, Province of Szechwan. The campus occupied 170 acres and was improved with 69 buildings. Among the larger buildings were the Lamont Memorial Building containing a museum, the Stubbs Chemistry Building, the College of Medicine and Dentistry and the New University Hospital. There were over 2000 trees of many varieties and thousands of shrubs adorning the campus.

land (170 acres)	\$ 350,000.00
buildings (including some equipment)	1,340,200.00
personal property	497,400.00

Total	\$2,187,600.00
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Shantung Christian University (Cheeloo)

Shantung Christian University was situated in Tsinan, the capital city of the Province of Shantung, China. The campus contained about 90 acres, of which twenty acres are within the south suburb and the remainder just outside the suburb. The inner portion of the campus is used by the School of Medicine and the Extension Department. The outer portion accommodates the School of Arts and Science and the School of Theology, most of the faculty residences, and the general university buildings and grounds. The campus had over 100 buildings.

land (90 acres)	\$ 270,000.00
buildings	3,060,563.00
personal property	665,000.00

Total	\$3,995,563.00
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In summary, the Commission finds that at the time of loss the value of claimant's property was as follows:

land	\$ 2,145,000.00
buildings	14,830,205.00
personal property	6,270,352.00

Total	\$23,245,557.00
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The Commission concludes that claimant suffered a loss, within the meaning of title V of the Act, in the amount of \$23,245,557.00.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that the UNITED BOARD FOR CHRISTIAN HIGHER EDUCATION IN ASIA suffered a loss in the amount of Twenty-Three Million Two Hundred Forty-Five Thousand Five Hundred Fifty-Seven Dollars (\$23,245,557.00) with interest thereon at 6% per annum from February 12, 1951 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 30, 1970

IN THE MATTER OF THE CLAIM OF SHANGHAI POWER COMPANY

Claim No. CN-0280—Decision No. CN-499

Items in a balance sheet, such as cash, accounts receivable, prepayments and similar intangibles, which were expressed in local Chinese currency that became worthless prior to the date of loss, may be eliminated in determining the value of an enterprise under Title V of the Act.

PROPOSED DECISION*

This claim against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$57,446,755.00 is based upon the loss of real and personal property in Shanghai, China. Claimant, SHANGHAI POWER COMPANY, is a corporation organized and existing under the laws of the State of Delaware.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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.

* This decision was entered as the Commission's Final Decision on August 20, 1970.

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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened or taken by the Chinese Communist regime.

Section 502(1) (B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record discloses that SHANGHAI POWER COMPANY was incorporated in 1929 in Delaware and that all of its outstanding voting stock has been owned since its incorporation by Far East Power Corporation, also a Delaware corporation. Of the 500,000 shares of Far East Power Corporation's outstanding voting shares, 400,100 shares or 80.02% have been held since 1935 by American & Foreign Power Company, Inc., a Maine corporation; and 23,050 shares or 4.61% by International General Electric Company, Inc., a New York corporation which in 1952 merged with General Electric Corporation, also a New York corporation. Since 1937 American & Foreign Power Company, Inc. had outstanding 2,000,000 shares which were held from 1937 through 1964 by persons and institutions in the United States. A major stockholder was Electric Bond and Share Company ("Ebasco"), a New York corporation, which held between 38.64% (in 1937) and 52.9% (in 1964) of all the shares of American & Foreign Power Company, Inc. In 1967 the 80.2% interest in claimant corporation indirectly owned by American & Foreign Power Company, Inc. was transferred to Brazilian Electric Power Company, a Florida corporation, a wholly owned subsidiary of American & Foreign Power Company, Inc. Subsequently, Electric Bond and Share Company merged with American & Foreign Power Company, Inc. into Ebasco Industries, Inc., a New York corporation. At the time of filing this claim, Ebasco Industries, Inc. held through Far East Power Corporation 80.02%, and General Electric Company 4.61% of all outstanding shares of claimant corporation. Based upon this record and upon the affidavit of the Acting Secretary of Ebasco Industries, Inc. who states that more than 95% of the outstanding voting shares were and are held by persons or firms, or corporations having addresses of record within the continental United States, Alaska, Hawaii, and Puerto Rico, the Commission finds that, in view of this fact, it may be assumed that 50 per centum or more of the shares of claimant corporation were owned by natural persons who are nationals of the United States. The Commission, therefore, concludes that claimant qualifies as a national of the United States within the meaning of Section 502(1) (B) of the Act.

Claimant states that on August 8, 1929 by an agreement concluded between the American & Foreign Power Company, Inc. and the Shanghai Municipal Council, claimant acquired the exclusive franchise to supply electricity within the International Settlement and parts outside of the settlement, and from that date it operated and owned the electric generating transmission and distribution system serving the International Settlement

and the so-called Extra Settlement Area of the City of Shanghai.

Claimant further states that on December 28, 1950 the State Administrative Council in Peking published an order placing all American-owned property under the management of local military authorities. As a result, claimant's offices and plants were immediately occupied and the management transferred to trusted local Chinese Communist officials.

The Commission appreciates the fact that due to the political conditions which now prevail in Communist China claimant may have no access to the primary evidence which is obtainable only in that country and which would show the specific decrees or laws ordering the nationalization or taking of claimant's enterprise. In addition, the Commission takes administrative notice that, in many instances, there were not specific decrees, laws or orders issued under which the Chinese Communist Regime nationalized or took property of United States nationals and corporations. Accordingly, when claimant establishes a sufficient basis for the unavailability of primary evidence, the Commission may consider and accept secondary evidence.

The record before the Commission indicates that by the end of December 1950 American-owned business property in Shanghai, including claimant's property, was placed under the management of local Communist military authorities. The Commission holds that such placement of claimant's enterprise under the management of local Communist military authorities constituted a taking of the property and finds that the assets in the area of Shanghai of SHANGHAI POWER COMPANY were taken by the Chinese Communist regime on December 28, 1950.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Claimant states that by the agreement of August 8, 1929 between the Shanghai Municipal Council and the American & Foreign Power Company, Inc. claimant acquired title to real property, improvements, the generating plants and to the related distributing system serving more than 100,000 customers in Shanghai and that it also acquired the exclusive franchise to service these customers as well as any new customers in the Shanghai area with electricity. The American & Foreign Power Company, Inc. paid for the acquisition of this property and franchise an amount of 81,000,000 Shanghai taels, which in 1929 was equivalent to U.S. \$51,410,000.00.

Claimant further states that through new investments the facilities were improved and enlarged and that after World War II new generating facilities were installed to serve approximately 128,000 customers. After reconstruction in 1949, the plant consisted of 13 turbine generators and 23 boiler units situated in buildings on land measuring almost 50 acres with

separate distribution equipment installed in various locations of the city.

Claimant lists its losses resulting from the nationalization of the plant facilities in the amount of \$57,446,755 plus interest. In support of this statement of losses claimant submitted a copy of the original franchise and transfer agreement of August 8, 1929 with numerous attachments and exhibits describing the property in detail. Claimant also submitted correspondence exchanged with the parent company in New York concerning the conditions of the property, the repairs required during the reconstruction postwar period and the new investments made for the amelioration of the service. At the request of the Commission claimant submitted a balance sheet for the year ending December 31, 1940 and for the year ending December 31, 1949. Claimant states that no balance sheet was prepared for the year ending December 31, 1950 because at that time the plant was already occupied by the agents of the Communist authorities.

Based upon the record, the Commission finds that claimant owned real property consisting of land in the city of Shanghai, measuring approximately 264 mou (or 46 acres), improved with generating stations, transmission facilities and distributing substations, depots, offices, residences for employees and other facilities, and a distribution system for electric power, the street lighting system, and streetcar system, as well as special electrical facilities for an automatic telephone system. In addition, claimant owned motor vehicles, buses, cars, metering equipment, office equipment and furniture, electrical equipment installed on customers' premises, such as electric motors, appliances, office appliances, etc.

The last balance sheet furnished by the claimant for the year ending December 31, 1949 shows that the plant facilities including the franchise were entered in the amount of \$55,666,216.00

and that depreciation was entered as "property retirement" in the amount of — \$ 4,607,737.00

resulting in a net value of the plant facilities including franchise in the amount of \$51,058,479.00

The current assets are listed in the aggregate amount of \$4,065,100 but the Commission finds that only an amount of \$ 2,774,406.00 for material and supplies represents property compensable under the Act, while cash, accounts receivable, prepayments and similar items originally expressed in local Chinese currency became worthless to all intents and purposes by the end of 1950 and must be disregarded here.

Accordingly, the Commission finds that claimant suffered a loss in the aggregate amount of \$53,832,885.00 within the meaning of title V of the Act as the result of actions of the Chinese Communist regime.

The liabilities and mortgage debentures in the aggregate amount of \$31,458,219 have not been deducted from the value of the assets because the Commission holds that claimant may remain liable for the payment of debts.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that SHANGHAI POWER COMPANY suffered a loss in the amount of Fifty-three Million Eight Hundred Thirty-two Thousand Eight Hundred Eighty-five Dollars (\$53,832,885.00) with interest thereon at 6% per annum from December 28, 1950 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 30, 1970

IN THE MATTER OF THE CLAIM OF SHANGHAI WHARF & WAREHOUSE COMPANY, FEDERAL INC., U.S.A.

Claim No. CN-0416—Decision No. CN-484

Land and improvements have values irrespective of what foreign currencies may be used to express them.

PROPOSED DECISION*

This claim against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,597,516.31 is based upon the loss of real and personal property in Shanghai, China.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened or taken by the Chinese Communist regime.

* This decision was entered as the Commission's Final Decision on August 20, 1970.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record discloses that claimant, SHANGHAI WHARF & WAREHOUSE COMPANY, FEDERAL INC., U.S.A., is a corporation organized under the China Trade Act of 1922, as amended, and under the laws of the United States. An officer of claimant corporation has certified that at all times pertinent to this claim, the entire capital stock represented by 9,000 shares was owned by American President Lines, Limited, a corporation organized under the laws of the State of Delaware, with the seat of business in San Francisco, California. The Secretary of American President Lines, Limited, certified that all the stock of the latter corporation has been held by residents of the United States, and no corporate stock is held by non-United States nationals. The Commission finds, therefore, that claimant is a national of the United States within the meaning of section 502(1)(B) of the Act.

Claimant states that it conducted wharf and warehouse operations in the port of Shanghai. It owned land, buildings, and terminal equipment, warehouses, an office building, living quarters and residences for its employees, a power plant, a water tower, etc.

Claimant further states that on August 11, 1951 the Military Control Commission for the City of Shanghai requisitioned claimant's entire property. By August 20, 1951 all the property had been taken over and on August 31, 1951 the old employees of the company were dismissed. This statement is supported by copies of the correspondence exchanged at that time and by copies of the original decrees ordering the confiscation of claimant's property. Based upon this record, the Commission finds that claimant's property in Shanghai was confiscated by the Chinese Communist regime on August 20, 1951.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Claimant evaluated the seized property on the basis of a survey and an appraisal made as of September 30, 1945 by Atkinson & Dallas, Civil Engineers, Architects and Surveyors of Shanghai. The survey disclosed that the land had an area of 79.295 mou valued at \$396,475.00; that on the land were erected 21 structures including wharves, warehouses, customs buildings, police quarters, a powerhouse, etc., extensive mechanical equipment, one tugboat, and a barge, valued at \$1,153,658.59. Claimant stated: "Although the loss of property occurred some six years later, it is believed that the

appraisal made in 1945 is properly reflective of the value of the property at time of loss in 1951." The company acquired additional personal property after September 30, 1945; this property consisted mainly of office and warehouse fixtures, cranes, barges, and miscellaneous mechanical equipment, and was listed in the claim at acquisition cost. As a result, claimant states that the property had the following value as of the date of loss:

Land	U.S. \$ 396,475.00
Buildings and Fixed Improvements.....	1,153,658.59
Personal Property Acquired after September 30, 1945	\$ 47,382.72
	<hr/>
	U.S. \$1,597,516.31

An examination of claimant's balance sheets from the year 1935 through 1947 reveals that the value of the land and improvements expressed in Chinese national currency remained unchanged. Since 1948 the balance sheets omitted the figures for the value of the land and buildings due to the unprecedented depreciation of the Chinese currency and reluctance of claimant's accountants to introduce new values in any currency. The Commission is in possession of a report filed by the claimant with the United States Department of Commerce on June 4, 1959, which shows that claimant evaluated its property as of December 31, 1951, as follows:

Land	\$ 457,074.40
Buildings	258,499.77
Wharves	205,248.58
Boundary Walls, etc.	38,676.58
Water Plant	20,098.57
Machinery & Equipment	56,975.28
Furniture & Fixtures	6,262.99
Cash on Deposit	2,462.56
Interest on Deposit	115.06
Cash on Hand	18.48
Inventory of Wharf Supplies	25.72
Unexpired Insurance	\$ 5,763.62
	<hr/>
Total	\$1,051,221.61

The Commission is, therefore, of the opinion that claimant's compensable losses consist of the following:

Land	\$ 457,074.40
Buildings	258,499.77
Wharves	205,248.58
Boundary Walls, etc.	38,676.58
Water Plant	20,098.57
Machinery & Equipment	56,975.28
Furniture & Fixtures	6,262.99
Inventory of Wharf Supplies	\$ 25.72
	<hr/>
Total	\$1,042,861.89

The items for cash, interest and unexpired insurance are not claimed and there is no evidence to establish the taking thereof. Consequently, these items are not included in the above listing of compensable losses.

Accordingly, claimant suffered losses within the meaning of title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,042,861.89.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that SHANGHAI WHARF & WAREHOUSE COMPANY, FEDERAL INC., U.S.A. suffered a loss in the amount of One Million Forty-two Thousand Eight Hundred Sixty-one Dollars and Eighty-nine Cents (\$1,042,861.89) with interest thereon at 6% per annum from August 20, 1951 to the date of settlement as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 30, 1970.

IN THE MATTER OF THE CLAIM OF THE SOCIETY OF THE MISSION OF ST. LOUIS, MISSOURI

Claim No. CN-0466—Decision No. CN-448

Complicated claim involving some 170 buildings and other structures, each of which had to be evaluated separately for the purpose of Title V of the Act.

PROPOSED DECISION*

This claim in the amount of \$3,053,900.00, against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, was presented by THE SOCIETY OF THE CONGREGATION OF THE MISSION OF ST. LOUIS, MISSOURI for the loss of claimant's real and personal property located in the Districts of Yukiang, Linchman, Poyang and Hokow, Province of Kiangsi and in Shanghai, China.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1648k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 for

* This decision was entered as the Commission's Final Decision on July 14, 1970.

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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened or taken by the Chinese Communist regime.

Claimant, THE SOCIETY OF THE CONGREGATION OF THE MISSION OF ST. LOUIS, MISSOURI, also filed a claim under the War Claims Act of 1948, as amended, by Public Law 87-846 (Claim No. W-10657). In that claim the Commission found that claimant owned certain improved real property and personal property incident to its missionary and charitable activities at twenty-two sites in the Province of Kiangsi, China. It granted an award in the amount of \$471,745.00 for the damages to the improvements and \$128,780.00 for the loss of the personal property suffered as a direct consequence of Japanese military operations during World War II. In the instant China claim claimant seeks the value of the building lots, the improvements thereon and the personal property therein at the said twenty-two sites and, in addition, the value of certain similar property at thirty-eight other sites that suffered no loss during World War II or which were acquired since 1945. The W-10657 file has been associated with the present claim for reference.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The claimant, THE SOCIETY OF THE CONGREGATION OF THE MISSION OF ST. LOUIS, MISSOURI, was organized under the laws of the State of Missouri in 1879 as a nonprofit corporation. An officer of claimant corporation has certified that at all times pertinent to this claim more than 50 per centum of its members have been nationals of the United States. The Commission, therefore, holds that claimant qualifies as a national of the United States within the meaning of Section 502(1)(B) of the Act.

The Commission appreciates the fact that there may be instances wherein primary evidence in support of a claim may not be available due to its loss or destruction during ensuing years between the taking of claimants' property and the enactment of title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China, claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United

States. In the absence of said decrees, laws and orders, the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' loss of their property. Accordingly, when claimants have established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The evidence of record here does not disclose a specific Chinese Communist decree, law or order which shows the nationalization, confiscation, or other taking of claimant's property in Communist China and the Commission agrees that such evidence may be unobtainable in this case.

The record does include thirty-four exhibits consisting of maps; photographs; timely correspondence relating to construction of new buildings; renovation and repairs to buildings damaged during World War II; circumstances reflecting the nationalization of the properties by the Chinese Communist regime and value; and affidavits of members of the claimant organization who were present on the subject real properties at all pertinent times.

Based on the entire record, including the evidence submitted in the aforementioned W-10657, the Commission finds that claimant since 1922, through World War II and post World War II, maintained an extensive missionary program in the northern section of the Province of Kiangsi, China and that it owned and operated real property improved with certain churches, schools for boys and girls, homes for the aged, dispensaries, residences, and orphanages and certain personal property therein with the attendant obligation and responsibility for administration, personnel, and financial support.

Claimant has been unable to furnish exact date on which its property was taken by the Chinese Communist regime. Claimant does state, however, that during the period February 1949 to September 1951 its members were expelled and that its property was seized and occupied by Chinese Communist forces. The Commission further finds that, under these circumstances and in the absence of evidence to the contrary, claimant lost all final control, use and enjoyment of its property through actions taken by or under the authority of the Chinese Communist regime on September 30, 1951.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The Commission has considered the financial and diocesan reports of the post World War II era reflecting the new construction and reconstruction of the buildings during these years; the photographs of the property, the affidavits and statements of members of the Order and the value of comparable property as established in other claims of non-profit organizations

in the present program. The Commission finds the properties were constituted and had a value at the time of loss as follows:

I. DISTRICT OF YUKIANG

YUKIANG—A parcel of land in the City of Yukiang, enclosed within brick perimeter walls, lying at the extreme Southern edge of the city on the principal Southeast road near the city wall and known as "The Catholic Mission" (Tienchutang), consisting of approximately 37.71 acres with a land value of \$113,000 improved with seven buildings containing various contents and valued as of September 1951 as follows:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 70,000	\$ 7,500	—	\$ 77,500
Residence	25,000	3,750	\$5,000	33,750
Primary School for Boys	5,625	2,500	—	8,125
Primary School for Girls	5,625	2,500	—	8,125
Middle School—175' x 50'	15,000	8,500	—	23,500
Home for Aged Men	1,500	2,625	—	4,125
Home for Aged Women	1,500	2,625	—	4,125
Total	\$124,250	\$30,000	\$5,000	\$159,250
Land				113,000
				<u>\$272,250</u>

TUNG CHI SUNG CHIA—A parcel of land in the village consisting of approximately $\frac{1}{4}$ acre, valued at \$1,000 improved with one building used as a Mission Chapel and residence, valued at \$7,000 and with contents of \$1,000. Total land and buildings and contents \$9,000

SANFUNGKAI—A parcel of land containing about 5 acres valued at \$10,000, same being the site of a Minor Seminary, the land being improved with two buildings as follows:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Minor Seminary Building	\$ 30,000	\$12,000	—	\$ 42,000
Faculty Residence	18,000	7,000	\$2,000	27,000
Total	\$ 48,000	\$19,000	\$2,000	\$ 69,000
Land				10,000
				<u>\$ 79,000</u>

TENGKIAFOW—A parcel of land in the center of the city known as The Catholic Mission (Tienchutang) and containing approximately 3.21 acres, improved with brick perimeter walls enclosing five buildings. Land value of \$8,000, and value of buildings etc. as follows:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 55,000	\$ 6,000	—	\$ 61,000
Residence	8,000	3,500	\$ 500	12,000
Primary School	5,000	2,200	—	7,200
Catechetical School—Boys	1,500	1,000	—	2,500
Catechetical School—Girls	1,500	1,000	—	2,500
Total	\$ 71,000	\$13,700	\$ 500	\$ 85,200
Land				8,000
				<u>\$93,200</u>

KWEIKI—A parcel of land in the City of Kweiki containing approximately 4.13 acres valued at \$12,500 and improved with brick perimeter walls and the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 65,000	\$ 6,500	—	\$ 71,500
Residence	12,000	4,000	\$ 500	16,500
Primary School	5,000	2,500	—	7,500
Catechetical School	2,000	1,000	—	3,000
Orphanage	15,000	6,000	—	21,000
Total	\$ 99,000	\$20,000	\$ 500	\$119,500
Land				12,500
				<u>\$132,000</u>

YINGTAN—A parcel of land in the City of Yingtan containing approximately 6.20 acres valued at \$21,700, improved with perimeter wall and the following four buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 60,000	\$ 7,000	—	\$ 67,000
Residence	10,000	4,000	\$1,000	15,000
Primary School—Boys	5,000	2,000	—	7,000
Primary School—Girls	5,000	2,000	—	7,000
Total	\$ 80,000	\$15,000	\$1,000	\$ 96,000
Land				21,700
				<u>\$117,700</u>

KANGPEI—A parcel of land within the village of Kangpei containing $\frac{1}{4}$ acre of land valued at \$1,000 and improved with a single combination building used for Mission Chapel, Residence, Catechetical School valued at \$10,000 with contents of \$5,000. Total \$16,000

NIAOSHAN—A parcel of land within the village of Niaoshan containing approximately $\frac{1}{4}$ acre of land valued at \$1,000, and improved with a single structured Mission Station valued at \$7,000 and having contents of \$3,500. Total \$11,500

SHANGTSIN (Shang-ch'ing-kung)—A rectangular parcel of land in the the town of Shangtsin, containing about 3.20 acres with a value of \$6,400, improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel	5 5,000	\$ 1,200	—	\$ 6,200
Residence	4,000	1,500	\$ 500	6,000
Total	\$ 9,000	\$ 2,700	\$ 500	\$ 12,200
Land				6,400
				<u>\$ 18,600</u>

YU-KAN—A parcel of land in the approximate center of the city containing 4.13 acres with a value of \$8,200, improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 65,000	\$ 5,000	—	\$ 70,000
Residence	7,000	3,000	\$ 500	10,500
Catechetical School	2,500	1,000	—	3,500
Total	\$ 74,500	\$ 9,000	\$ 500	\$ 84,000
Land				8,200
				<u>\$ 92,200</u>

II. DISTRICT OF LINCHWAN

LINCHWAN Fu-chou—A parcel of land in the City of Linchwan enclosed by brick perimeter walls containing about 14.44 acres valued at \$58,000, improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 80,000	\$ 8,000	—	\$ 88,000
Residence	25,000	5,000	\$2,000	32,000
Middle School	20,000	7,000	—	27,000
Primary School	10,000	3,000	—	13,000
Orphanage	15,000	2,000	—	17,000
Home for Aged-Dispensary	10,000	4,000	—	14,000
Total	\$160,000	\$29,000	\$2,000	\$191,000
Land				58,000
				<u>\$249,000</u>

LINCHWAN—A parcel of land approximately 35' wide adjacent to the exterior of the south perimeter wall of the above-described property containing approximately .75 of an acre valued at \$2,000 and improved with a building of two-story height, having 21 units of combination homeshops valued at \$21,000. Total value \$23,000

LINCHWAN—A parcel of land located near the northern city limit and within the city wall containing 5 acres valued at \$10,000 and improved with a conventional Chinese residence valued at \$1,500.

Total value \$11,500

LO FU CHEE—A parcel of land within this small village containing approximately one acre valued at \$500 and improved with the following three buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church 60' x 30'	\$ 10,000	\$ 3,000	—	\$ 13,000
Residence	1,500	1,000	—	2,500
School—2 story	6,000	2,000	—	8,000
Total	\$ 17,500	\$ 6,000		\$ 23,500
Land				500
				<u>\$ 24,000</u>

TUNG-SHE-CHOW—A parcel of land within this small village about $\frac{1}{4}$ acre in size with a value of \$100 and improved with a single combination Mission Building, with chapel, priests quarters, meeting rooms constructed of masonry bricks. The building has an estimated value of \$4,000 and had contents of \$1,500. Total value \$5,600

SHANGTUNTU—A parcel of land containing about 10 acres with a value of \$25,000 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel	\$ 6,500	\$ 1,200	—	\$ 7,700
Residence	4,500	1,500	\$ 500	6,500
Catechetical School	2,500	1,000	—	3,500
Total	\$ 13,500	\$ 3,700	\$ 500	\$ 17,700
Land				25,000
				<u>\$ 42,700</u>

LIKIATU—A parcel of land lying within the town of Likiatu, containing

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
6.77 acres valued at \$15,000 and improved with buildings as follows:				
Church	\$ 15,500	\$ 4,000	—	\$ 19,000
Residence	6,000	3,500	\$1,000	10,500
Primary School	3,000	1,500	—	4,500
Worker's Quarters—Men	3,000	1,800	—	4,800
Women's Quarters— aged females	4,000	2,000	—	6,000
Total	\$ 31,000	\$12,800	\$1,000	\$ 44,800
Land				15,000
				<u>\$ 59,800</u>

PEHCHIACHI—A small parcel of land in the center of the small village of Pehchiachi, about 2 tenths of an acre in size and worth about \$100, improved with combination building containing chapel, living quarters, instruction rooms, valued at \$3,000. Total value \$4,200

TENGKAI—A parcel of land in the center of the small village of Teng kai near the river, half-way between the cities of Linchwan and Likiatu, and containing one acre valued at \$1,800 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 10,000	\$ 3,000	—	\$ 13,000
Residence	5,000	2,000	—	7,000
Primary School—Boys	2,000	1,000	—	3,000
Primary School—Girls	2,000	1,000	—	3,000
Total	\$ 19,000	\$ 7,000		\$ 26,000
Land				1,800
				<u>\$ 27,800</u>

YUNG SAN—A parcel of land near the village of Yung san containing about .69 acre valued at \$5,000 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church—30' x 60'	\$ 5,000	\$ 1,000	—	\$ 6,000
Rectory—2 story—20' x 60'	5,000	5,000	—	10,000
Catechetical School—Males	1,000	500	—	1,500
Catechetical School—Females....	2,000	1,000	—	3,000
Dormitory Building—Males	1,000	—	—	1,000
Dormitory Building—Females ..	800	—	—	800
Refectory & Kitchen	300	800	—	1,100
Storage Barn	500	200	—	700
Total	\$ 15,600	\$ 8,500		\$ 24,100
Land				5,000
				\$ 29,100

TSUNGJEN—A parcel of land in the City of Tsungjen enclosed with brick perimeter walls and containing 3.45 acres valued at \$15,000 and improved with the following structures:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 60,000	\$ 6,000	—	\$ 66,000
Residence—1 story	1,500	1,200	\$1,000	3,700
School for boys	1,000	600	—	1,600
Building for women	1,500	600	—	2,100
Total	\$ 64,000	\$ 8,400	\$1,000	\$ 73,400
Land				15,000
				\$ 88,400

HWANG-PU—A parcel of land lying within the village enclosed by perimeter brick walls containing 1.20 acres valued at \$2,000 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 20,000	\$ 4,000	—	\$ 24,000
Residence	1,500	1,200	\$ 500	3,200
Catechetical School—boys	1,000	1,000	—	2,000
Catechetical School—girls	2,500	1,500	—	4,000
Total	\$ 25,000	\$ 7,700	\$ 500	\$ 33,200
Land				2,000
				\$ 35,200

CHUSIN—A parcel of land in the small village of Chusin with a ground area of approximately .75 acre with a value of \$500, improved with two structures as follows:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church with connected residence	\$ 6,000	\$ 2,000	—	\$ 8,000
School building	1,000	800	—	1,800
Total	\$ 7,000	\$ 2,800		\$ 9,800
Land				500
				\$ 10,300

LUNGKIATU—A small parcel of land in the village of Lungkiatu containing one half acre with a value of \$200 improved with a building used as a combination Mission Station with chapel, living quarters, meeting rooms, etc. valued at \$1,500 and containing furniture, fixtures and equipment valued at \$600 and also a small house occupied by the caretaker with a value of \$100. Total value \$2,400

PELOUTU—A parcel of land located on the principal street of the City of Peloutu enclosed within brick perimeter walls and containing one-half acre valued at \$200 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 60,000	\$ 4,500	—	\$ 64,500
Residence	1,500	1,500	\$ 500	3,500
Catechetical School	6,000	3,000	—	9,000
Total	\$ 67,500	\$ 9,000	\$ 500	\$ 77,000
Land				200
				<hr/> \$77,200

KINKI—A parcel of land in the City of Kinki within the city walls and enclosed with perimeter walls in areas of about two acres and valued at \$20,000, improved with the following structures:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 5,000	\$ 2,500	—	\$ 7,500
Residence	4,000	1,800	\$ 500	6,300
Catechetical School—Boys	1,500	1,200	—	2,700
Catechetical School—Girls	1,500	1,100	—	2,600
Total	\$ 12,000	\$ 6,600	\$ 500	\$ 19,100
Land				20,000
				<hr/> \$39,100

SUWAN—A parcel of land lying in the central business district of the city of Suwan, enclosed with perimeter wall and containing 1.20 acres of land valued at \$5,000, improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel	\$ 4,000	\$ 1,600	—	\$ 5,600
Residence	1,000	1,200	\$ 500	2,700
Catechetical School—Boys	1,500	900	—	2,400
Catechetical School—Girls	2,500	1,000	—	3,500
Total	\$ 9,000	\$ 4,700	\$ 500	\$ 14,200
Land				5,000
				<hr/> \$ 19,200

TSUNGHSIANG—A parcel of land in the City of Tsunghsiang near the railroad station enclosed with perimeter walls and on the principal street of the city of an area of approximately $\frac{1}{4}$ acre with a value of \$1,000 improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel—recent construction	\$ 4,000	\$ 1,800	—	\$ 5,800
Residence	2,000	1,300	\$1,000	4,300
School for Boys	1,000	900	—	1,900
Women's & Girls Building	800	900	—	1,700
Total	\$ 7,800	\$ 4,900	\$1,000	\$ 13,700
Land				1,000
				<u>\$ 14,700</u>

IHWANG—A parcel of land bordering on the river in the Southeastern part of the city of Ihwang enclosed with perimeter walls of brick construction containing 1.75 acres valued at \$5,000 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 12,000	\$ 1,500	—	\$ 13,500
Residence	6,000	2,000	\$1,000	9,000
Primary School—Boys	2,500	1,000	—	3,500
Primary School—Girls	1,500	1,000	—	2,500
Dormitory Bldg. 2 sty, Males ..	1,000	n-k	—	1,000
Dormitory Bldg. Females	800	n-k	—	800
Refectory & Kitchen	300	800	—	1,100
Barn	500	200	—	700
Total	\$ 24,600	\$ 6,500	\$1,000	\$ 32,100
Land				5,000
				<u>\$ 37,100</u>

HSING-FANG—A parcel of land in the village of Hsing-fang about .05 acre in area valued at \$200 and improved with a multiple use Mission Building valued at \$1,000 and having contents of \$400.

Total value \$1,600

HOI-CHIH-TU—A parcel of land in the village of Hoi-chih-tu consisting of .05 acre valued at \$200 and improved with a multiple usage Mission Building valued at \$1,000 and having contents of \$400.

Total value \$1,600

MAI-FONG—A parcel of land in the village of Mai-Fong consisting of .05 acre valued at \$200 and improved with a single multiple usage Mission Building valued at \$1,000 and having contents of \$400.

Total value \$1,600

SHEN-KANG—A parcel of land in the village of Shen-kang consisting of ½ acre valued at \$1,000 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 2,000	\$ 1,000	—	\$ 3,000
School	1,000	500	—	1,500
Total	\$ 3,000	\$ 1,500		\$ 4,500
Land				1,000
				<u>\$ 5,500</u>

GNAI-SONG—A parcel of land in the village of Gnai-song containing about .05 acre valued at \$200 and improved with a single multiple purpose Mission Building valued at \$500 and holding contents of \$200

Total value \$ 900

CH'UNG-WU-TU—A parcel of land in the village of Ch'ung-wu-tu containing approximately ½ acre valued at \$1,000 and improved with the following structures:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 1,000	\$ 500	—	\$ 1,500
Residence	500	500	—	1,000
School	1,000	1,000	—	2,000
Total	\$ 2,500	\$ 2,000		\$ 4,500
Land				1,000
				<hr/> \$ 5,500

PEH-TU—A parcel of land in the village of Peh-tu containing about ½ acre and valued at \$500 improved with the following buildings having contents as specified:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church (constructed 1920)	\$ 3,000	\$ 1,000	—	\$ 4,000
Residence 40' x 30'	1,000	500	—	1,500
Total	\$ 4,000	\$ 1,500		\$ 5,500
Land				500
				<hr/> \$ 6,000

WONG-BI—A parcel of land in the village of Wong-bi containing about .70 acres and valued at \$500 improved with a single combination many usages Mission Building valued at \$500 with contents of \$200.

Total value \$1,200

SHINGKAO'I (Ch'ing-kao-i)—A parcel of land in the village of Shingkao'i containing about ½ acre valued at \$200 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel	\$ 4,000	\$ 1,000	—	\$ 5,000
Residence	6,000	1,500	—	7,500
Total	\$ 10,000	\$ 2,500		\$ 12,500
Land				200
				<hr/> \$12,700

III. DISTRICT OF POYANG

POYANG—A parcel of land in the Northeast corner of the city located on the main East-West street containing approximately 30 acres valued at \$100,000 being the largest Mission Compound in the Yukiang Diocese and extending over four blocks long with buildings or brick wall forming the boundary on three sides and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Residence	\$ 30,000	\$ 5,000	\$1,500	\$ 36,500
Chapel	15,000	2,000	—	17,000
Home for the Blind	5,000	1,800	—	6,800
Lace Making Building	1,500	1,000	—	2,500
Catechetical School	5,000	2,000	—	7,000
Church—built 1940, seat 850 ..	80,000	12,000	—	92,000
Workers' Rooms	3,000	500	—	3,500
Total	\$139,500	\$24,300	\$1,500	\$165,300
Land				100,000
				<u>\$265,300</u>

Poyang—A parcel of land outside the Mission Compound and directly across the road from the new church described above, measuring approximately 150' x 150' with a brick wall around its perimeter and improved with a residence building. Total value \$5,000

Poyang—A parcel of land outside the Mission Compound and across the road at the opposite end of the Compound from the new church, measuring approximately 75' x 60' and improved with a residence building. Total value \$5,000

SUSULIKAI—A parcel of land in the center of the small village of Susulikai containing about .35 acre valued at \$800 with a brick wall around its perimeter and improved with a one-story, 20' deep building along approximately 250' of the wall containing rooms used as Chapel, Residence, and Classrooms with a value of \$2,000 and having contents of \$500. Total value \$3,300

FOUGACHOW—A parcel of land in the center of the small village of Fougachow and containing .46 acre valued at \$900 with a brick wall around its perimeter and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel seating 400	\$ 3,000	\$ 1,100	—	\$ 4,100
Residence — 30'x50'	1,500	1,000	—	2,500
Total	\$ 4,500	\$ 2,100		\$ 6,600
Land				900
				<u>\$ 7,500</u>

SEMANKAI—A parcel of land just outside the West Gate of the City of Poyang containing .15 acre valued at \$200, improved with a Chapel seating about 300 people and valued at \$2,000 with contents of \$1,000. Total value \$3,200

KINGTEHCHEN—A parcel of land located in the Northwest corner of this city containing about 5.05 acres valued at \$16,000 with a brick wall around its perimeter and dividing it into a men's and women's section, improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 25,000	\$ 4,000	—	\$ 29,000
Residence—2 story	10,000	3,000	\$ 500	13,500
Primary School—Boys	3,000	1,500	—	4,500
Women's School—2 story	15,000	3,000	—	18,000
Women's Residence	5,000	1,200	—	6,200
Total	\$ 58,000	\$12,700	\$ 500	\$ 71,200
Land				16,000
				<u>\$ 87,200</u>

LOPING—A parcel of land located almost in the center of this city containing 4.13 acres valued at \$10,500 with a brick wall around its perimeter and improved with the following buildings including a Gothic church of white stone much like the one at Kweiki:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 55,000	\$ 9,000	—	\$ 64,000
Residence—50'x100'	12,000	4,500	\$ 500	17,000
School—two story	9,000	4,400	—	13,400
Women's building	8,000	2,100	—	10,100
Total	\$ 84,000	\$20,000	\$ 500	\$104,500
Land				10,500
				<u>\$115,000</u>

WANNIEN—A parcel of land located next to the East Gate of the city containing 4.26 acres valued at \$11,000 with a brick wall around its perimeter, a small road through the middle of the compound dividing it into a men's and women's section and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Large Chinese Home used as Chapel, Residence & Classes	\$ 12,000	\$ 4,200	\$ 500	\$ 16,700
Women's Building	8,000	4,500	—	12,500
Dormitory—2 story, 75' x 75'..	7,000	3,000	—	10,000
Total	\$ 27,000	\$11,700	\$ 500	\$ 39,200
Land				11,000
				<u>\$ 50,200</u>

IV. DISTRICT OF HOKOW

HOKOW—A parcel of land located in the Southwest corner of the city containing 24.79 acres valued at \$62,000 with a brick wall around the perimeter and a road through the middle dividing the compound into a men's and women's department, and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 65,000	\$ 6,500	—	\$ 71,500
Residence	12,000	4,000	\$ 500	16,500
Primary School #1—Boys	5,000	4,000	—	9,000
Primary School #2—Girls	5,000	4,000	—	9,000
Catechetical School	2,000	1,000	—	3,000
Granary	800	1,500	—	2,300
Women's Residence	3,000	1,200	—	4,200
Orphanage	5,000	1,500	—	6,500
Dispensary	1,000	2,500	—	3,500
Total	\$ 98,800	\$ 26,200	\$ 500	\$ 125,500
Land				62,000
				<u>\$187,500</u>

HENG FENG—A parcel of land in a small village consisting of .25 acre valued at \$600 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel-Residence	\$ 1,500	\$ 1,000	—	\$ 2,500
Storage Building	500	200	—	700
Total	\$ 2,000	\$ 1,200		\$ 3,200
Land				600
				<u>\$ 3,800</u>

YUSHAN—A parcel of land bordering the city wall containing approximately 2 acres valued at \$5,300 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 35,000	\$ 3,000	—	\$ 38,000
Residence	7,000	3,500	\$ 500	11,000
House #1—Men	2,000	1,600	—	3,600
House #2—Women	2,000	1,600	—	3,600
Total	\$ 46,000	\$ 9,700	\$ 500	\$ 56,200
Land				5,300
				<u>\$ 61,500</u>

CHI-TU—A parcel of land in the center of this small village containing approximately .75 acre valued at \$1,000 and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Chapel	\$ 1,000	\$ 900	—	\$ 1,900
Residence for Priest	500	400	—	900
Residence for Catechist	500	—	—	500
Total	\$ 2,000	\$ 1,300		\$ 3,300
Land				1,000
				<u>\$ 4,300</u>

Yushan—Several parcels of land scattered around the countryside near Yushan, used by the Mission farming in order to pay the teachers salaries, consisting of 8 acres valued at \$2,000.

Total values \$2,000

SHANGJAO—A parcel of land located near the North edge of this city containing .75 acre valued at \$800 and improved with one building measuring about 75' x 50' used as Chapel, and Residence valued at \$3,000 with contents valued at \$1,200.

Total value \$5,000

IYANG—A parcel of land situated on the North side of the city containing 11.02 acres valued at \$26,000 with a brick wall around its perimeter and a road through the compound dividing it into a men's and women's department, and improved with the following buildings:

	<i>Building</i>	<i>F.F.&E.</i>	<i>Personal Effects</i>	<i>Total</i>
Church	\$ 40,000	\$ 4,500	—	\$ 44,500
Residence	15,000	5,000	\$ 500	20,500
Catechetical School #1	2,000	1,000	—	3,000
Primary School	2,500	1,200	—	3,700
Women's Residence	11,000	8,500	—	19,500
Total	\$ 70,500	\$20,200	\$ 500	\$ 91,200
Land				26,000
				<u>\$117,200</u>

NAN-KIANG-KOW—A parcel of land situated in a prominent location in this city on the main road and containing .06 acre valued at \$400 and improved with a Chinese home that served as Chapel and Residence for the priest, valued at \$2,000 with contents of \$600 and personal effects of \$500.

Total value \$3,500

SITANG—A parcel of land in the center of this small village containing .10 acre and improved with a mission station building that served as Chapel and Residence, with land valued at \$300, building valued at \$1,500 and contents valued at \$500.

Total value \$2,300

LOANGFONG—A parcel of land located in this city containing about .90 acre valued at \$800 and improved with a Mission Building that served as Chapel, Residence and Catechetical School valued at \$2,500 with contents valued at \$600.

Total value \$3,900

TSAO FONG—A parcel of land in this small village containing about .10 acre valued at \$300 and improved with a Mission Building that served as Chapel and Residence, valued at \$2,000 with contents valued at \$1,100.

Total value \$3,400

V. OTHER REAL ESTATE

LINCHWAN—One hundred and Twenty (120) acres of unimproved farm lands in the aggregate, consisting of many small plots six to two acres in area and attached to the various Missions in the district of Linchwan and used for growing rice.

Total value \$15,000

SHANGHAI (#139)—A parcel of land in the district formerly known as the French Concession in the City of Shanghai, China, registered in the Land Register of the French Concession as Cadastral 139, situated at the corner of Edward VII Avenue and the Rue des Peres, consisting of 0.0740 mou valued at \$15,000 and improved with a building which is valued at \$17,800. Total value of land and buildings \$32,800

SHANGHAI (#153)—A parcel of land in the district formerly known as the French Concession in the City of Shanghai, China, registered in the Land Register of the French Concession as Cadastral 153, situated between Edward VII Avenue and the Streets of "du Consulat, de saigon, Palikao," consisting of 7.306 mou valued at \$69,200 and improved with a four-story brick apartment building valued at \$80,600. Total value of land and buildings \$149,800

SHANGHAI (#168)—A parcel of land in the district formerly known as the French Concession in the City of Shanghai, China, registered in the Register of the French Concession as Cadastral 168, situated between the streets—"Weiwei—du Consulat—des Peres de Saigon," and consisting of 8.757 mou, valued at \$62,000 and improved with a four-story brick apartment building valued at \$76,300. Total value of land and buildings \$138,300

SHANGHAI (#170)—A parcel of land in the district formerly known as the French Concession in the City of Shanghai, China, registered in the Land Register of the French Concession as Cadastral 170, situated at the corner of Rue du Consulat and Rue des Peres, consisting of 1.050 mou valued at \$7,500 and improved with a building which is valued at \$9,100. Total value of land and building \$16,600

SHANGHAI (#438)—A parcel of land in the district formerly known as the French Concession in the City of Shanghai, China, known as Lot 438, consisting of 8.134 mou. The land consists of 8-Mao, 1-Li, 3-Hao, valued at \$44,600. Total value of land and buildings \$82,100

VI. OTHER CHATTELS

Shanghai—A Diesel-Engine Generator of Electricity valued at \$1,000 brought from the United States in 1948 for the Mission of Linchwan, Kiangsi, but detained and finally confiscated in Shanghai. Value \$1,000

Yukiang—A Willis Jeep bought new in 1948 and brought to Yukiang at the end of 1948 for the use of Bishop Quinn, and valued at \$2,000 when confiscated. Value \$2,000

Yukiang Diocese—Five motorcycles garaged at the various locations in the four districts of the Yukiang Diocese, with an average value of \$350 each when confiscated. Total value \$1,750

Yukan—Two horses were known to be kept at the Mission of Yukan with a value of about \$50 each. Total value \$100

In summary the Commission concludes that claimant suffered a loss within the meaning of title V in the total amount of \$3,053,900.00 as follows:

I. District of YUKIANG	\$ 841,450.00
II. District of LINCHWAN	836,900.00
III. District of POYANG	541,700.00
IV. District of HOKOW	394,400.00
V. Other Real Estate	434,600.00
VI. Other Chattels	4,850.00
Total	<u>\$3,053,900.00</u>

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-001); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that THE SOCIETY OF THE CONGREGATION OF THE MISSION OF ST. LOUIS, MISSOURI suffered a loss in the amount of Three Million Fifty-three Thousand Nine Hundred Dollars (\$3,053,900.00) with interest thereon at 6% per annum from September 30, 1951 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 10, 1970

IN THE MATTER OF THE CLAIM OF ISABELL O. ALCONE

Claim No. CN-0253—Decision No. CN-314

Petition to Reopen

AMENDED FINAL DECISION

The Commission issued its Final Decision on this claim on September 16, 1970 certifying a loss to claimant in the amount of \$152,501.50, with interest thereon from October 1, 1949, for claimant's one-half interest in nine parcels of real property in Harbin, China that were taken by the Chinese Communist regime.

Subsequent to the issuance of the Final Decision claimant has submitted new evidence on three additional items of property, now constituting claimant's petition to reopen the claim.

Based on the entire record, including all evidence in support of the petition to reopen the claim, the Commission now finds that claimant was also the owner of a one-half interest in improved real property on Kitaiskaia St., Harbin, China, that it was taken by the Chinese Communist regime on May 1, 1959 and that claimant's one-half interest at the time of loss had a value of \$175,000.00.

The Commission also finds that claimant was the owner of a one-half interest in unimproved commercial lots on Baikal Road, Shanghai, China; this land was taken on October 1, 1949 and that at the time of loss claimant's said interest had a value of \$20,000.00.

As to that part of the claim based on a bank account the Commission finds that said account was still in the name of claimant's father, a non-national of the United States. Said father had left China and died in France. The record reflects that when he left China he could not take this money with him. The Commission finds that on said departure date the owner had lost all use and control of the account and the property was taken at that time. Since the property was owned by a non-national at the time of loss whatever interest claimant had is not certifiable under the Act. Accordingly, this part of the claim is denied.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered as follows:

<i>On</i>	<i>From</i>
(1) \$152,501.52	October 1, 1949
20,000.00	October 1, 1949
<u>\$172,501.52</u>	
(2) \$175,000.00	May 1, 1959
<u>\$347,501.52</u>	

Accordingly, it is

ORDERED that the Final Decision as modified herein be and the same is entered as the Amended Final Decision on this claim. The certification of loss is restated below.

CERTIFICATION OF LOSS

The Commission certifies that ISABELLE O. ALCONC suffered a loss in the amount of Three Hundred Forty-Seven Thousand Five Hundred One Dollars and Fifty-Two Cents (\$347,501.52) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 30, 1972.

FINAL DECISION

The part of the claim in the amount of \$152,501.50 which was based on the loss of nine parcels of improved real property located in Harbin and Hilar, China, was denied on the grounds that claimant had failed to establish her ownership of the subject properties and that this portion of the claim was owned by a national of the United States on the date it arose and continuously thereafter until the date of filing with the Commission. The second part of the claim in the amount of \$1,550,000.00 was based upon the loss of claimant's "right of inheritance" of industrial and commercial properties of her deceased father in Harbin and Hilar, China. The Commission found that when claimant's father died in 1959, any property of the deceased which may have been taken by the Chinese Communist regime did not destroy a subsequent right in claimant to inherit from her father, and that

upon his death in 1959 the claimant inherited whatever interest her father had in his claim against the Chinese Communist regime. Since this property, however, was not owned by a national of the United States on the date of loss and because this portion of the claim was not owned by a national of the United States continuously thereafter until the date of filing with the Commission, this part of the claim was denied.

Objections were raised only to that part of the claim based on the aforementioned nine parcels of improved real property. Based on the newly submitted evidence and the testimony given at the oral hearing, the Commission now finds that claimant, ISABELLE O. ALCONE, was the owner of a $\frac{1}{2}$ interest in all nine parcels of the improved real property and that these properties, in the absence of evidence of a specific taking date for each parcel, were taken by the Chinese Communist regime on October 1, 1949, the date on which the Chinese Communist regime was proclaimed and the initial date encompassed until title V. The Commission further finds that at the time of loss the property had a total value of \$152,501.52. The Commission concludes that claimant, ISABELLE O. ALCONE, suffered a loss within the meaning of title V of the Act in this amount.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered. Accordingly, it is

ORDERED that the Proposed Decision as modified herein be and the same is entered as the Final Decision on this claim. The certification of loss is restated below.

CERTIFICATION OF LOSS

The Commission certifies that ISABELLE O. ALCONE suffered a loss in the amount of One Hundred Fifty-Two Thousand Five Hundred One Dollars and Fifty Centers (\$152,501.50) with interest thereon at 6% per annum from October 1, 1949 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., September 16, 1970.

PROPOSED DECISION

This claim against the Chinese Communist regime, under title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,702,500.00, was presented by ISABELLE O. ALCONE for the asserted loss of certain real property in Harbin and Hailar, China. Claimant has been a national of the United States since July 5, 1939.

Under title V of the International Claims Settlement Act of 1949 [16 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

The record shows that claimant had filed claims under Title II of the War Claims Act of 1948 (76 Stat. 1107 (1962)), for property losses sustained in China during World War II (Claim Nos. W-6668, W-13182 and W-13183). The claim for losses in Harbin, China (Claim No. W-13182) relates to the claim filed against the Chinese Communist regime.

Initially, Claim No. W-13182 was denied by the Commission for failure to sustain the burden of proof. Subsequently, additional supporting evidence was submitted and testimony was given at an oral hearing before the Commission. Under date of May 15, 1967, the Commission entered a Final Decision on that claim granting claimant an award in the amount of \$31,100.00 for the loss of a one-half interest in improved real property located on Kommercheskaya Street, Harbin, and in the personal property situated therein. The balance of that claim, for \$151,501.50, was denied for lack of proof.

Claimant asserts the following losses under title V of the Act:

\$152,501.00, representing the part of Claim No. W-13182 which was denied; and

\$1,549,999.00, representing a "loss of inheritance" of property owned by her late father, a nonnational of the United States, who died in France in 1959.

Balance of Claim No. W-13182

The burden of counsel's contention is that in Claim No. W-13182, the Commission had determined favorably the issue of ownership of the property in question; and that the Commission's finding that said property had not been lost, damaged or destroyed as a result of World War II necessarily implies that the property was subsequently taken by the Chinese Communist regime. Accordingly, the balance of Claim No. W-13182, \$152,501.00, is asserted as the extent of claimant's loss in this respect.

Upon examination of Claim No. W-13182, the Commission finds no support for counsel's contention. The Commission's decision clearly states that the evidence was insufficient to warrant the conclusion that claimant owned the property in question or sustained a loss thereof. A pertinent part of the Commission's Final Decision reads as follows:

"With respect to the remaining portions of Claim No. W-13182 and Claim No. W-13183, the Commission finds after a thorough review of the record of each of these claims, including the testimony of claimants

at the oral hearing and the evidence submitted in support of the claims subsequent thereto, there does not appear in the records of either claim independent corroborative evidence of sufficient probative value from which the Commission could make definite findings of act concerning the ownership or loss thereof upon which to base awards for the loss of such property."

No further evidence has been submitted in support of this portion of the claim. Claimant and counsel rely solely on the record in Claim No. W-13182.

On the basis of the entire record, the Commission finds that claimant has failed to meet the burden of proof. The record does not establish that claimant owned the property upon which this portion of the claim is based, and that this portion of the claim was owned by a national of the United States on the date it arose and continuously thereafter until the date of filing with the Commission in accordance with the following provisions of Section 504 of the Act:

(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.

For the foregoing reasons, this portion of the claim is denied.

Loss of Inheritance

Counsel states that this portion of the claim is based upon the loss of claimant's "right of inheritance" of industrial and commercial properties of her late father in Harbin and Hailar, China. It is asserted that claimant and her brother, a nonnational of the United States, were the sole heirs of her father, also a nonnational of the United States, who died in France in 1959.

It is contended that the properties of claimant's late father had been taken by the Chinese Communist regime prior to her father's death, and that said action of the Chinese Communist regime therefore had effectively destroyed the right of this claimant to inherit with her brother the giant interests of their father—a loss which it is contended is compensable under the provisions of Public Law 89-780.

The Commission finds counsel's contentions untenable. While the Chinese Communist regime may have taken the properties belonging to claimant's late father prior to his death, that regime did not destroy claimant's right to inherit from her father. Upon the taking of said properties, a claim against the Chinese Communist regime arose in favor of claimant's late father; and when he died in 1959 claimant inherited an interest in her late father's claim.

Pursuant to the express provisions of section 504, quoted above, this portion of the claim cannot be considered because the property on which it is based was not owned by a national of the United States on the date of loss and because this portion of the claim was not owned by a national of the United States continuously thereafter until the date of filing with the Commission.

Accordingly, this portion of the claim is also denied.

Dated at Washington, D.C., April 15, 1970.

IN THE MATTER OF THE CLAIM OF SHVETZ REALTY CORPORATION

Claim No. CN-0480—Decision No. CN-247

Petition to Reopen

AMENDED FINAL DECISION

The Commission issued its Final Decision on this claim on February 17, 1971 denying this claim because the evidence of record was insufficient to establish that claimant owned property which had been taken by the Chinese Communist regime at a time when it was owned by a national of the United States as required by the statute.

Subsequent to the issuance of the Final Decision claimant has petitioned for the reopening of the claim and submitted certain affidavits with respect to ownership and dates of taking.

Upon review of the entire record, including the new evidence submitted with the petition to reopen, the Commission now finds that the SHVETZ REALTY CORPORATION was organized on June 10, 1948 under the laws of the State of Delaware and that Alexander E. Shvetz, a national of the United States since his naturalization on March 31, 1955, was the owner of all of the outstanding shares of stock of the said corporation at all times pertinent to this claim. Accordingly, the Commission concludes that the claimant corporation qualifies as a national of the United States within the meaning of the Act.

On the basis of the record as now constituted, the Commission finds that the SHVETZ REALTY CORPORATION was the owner of two two-story attached residences, known as Lane Number 100 off Saing Yang Road South, Shanghai, China. In an affidavit, dated February 28, 1972, submitted in support of the petition to reopen, one Yip Hin Ching states that he was a resident of Shanghai until 1959; that his sister-in-law resided in this property; and that in the year 1957, the Chinese Communist Government took this property. Accordingly, upon consideration of the record with respect to this property, the Commission finds that it was taken by the Chinese Communist regime on or about July 1, 1957. The Commission further finds that the value of the said property on the date of taking was \$80,000.00.

Affidavits were also submitted with respect to the taking of the other items of property involved in this claim. However, the Commission concludes that the statements are lacking in details as to the extent of control maintained by the claimant or its representatives and are not of sufficient probative value to warrant a finding that the other items of property were taken at a time when they were owned by a national or nationals of the United States. Therefore, the denial of the portion of the claim based on these items is affirmed.

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 *Claim of Clarence Burton Day and Ethelwyn C. Day*, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered. Accordingly, it is

ORDERED that the Final Decision as modified herein be and the same is entered as the Amended Final Decision on this claim.

CERTIFICATION OF LOSS

The Commission certifies that SHVETZ REALTY CORPORATION suffered a loss in the amount of Eighty Thousand Dollars (\$80,000.00) with interest thereon at 6% per annum from July 1, 1957 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of title V of the International Claims Settlement Act of 1949, as amended.

Dated at Washington, D.C., June 30, 1972.

FINAL DECISION

This claim, in the amount of \$450,000.00, was based on the ownership of four parcels of improved real property and four parcels of vacant land in Shanghai, China, as follows:

1. Apartment house known as Apartments #338 Route Tenant de la Tour, consisting of three stories with seven shops and two 2-room apartments and four 4-room apartments.
2. Seven single story shops situated on a parcel of land known as 82 to 94 Route Tenant de la Tour held under Tu-de-Jen numbers 2206, 801 and 4853—area mows 0.206, 0.304 and 0.330.
3. Two 2-story attached residences known as Lane number 100 off Saing Yang Road South.
4. Forty 2-story single units consisting of shops and apartments known as Lane 631 Kwenming Road, held under B.C. Lot numbers 13132 and 11341—area mows 3.077 and 2.996.
5. Vacant land on Chiu Road (Pearce Road) held under Tu-de-Jen numbers 5930 and 5261—area mows 0.956 and 2.143.
6. Vacant land in three separate parcels known as Woo Tah Road corner of Chung Hwa Shing Road—area mows 0.622, 0.314, 0.622, 0.314 and 3.493.
7. Vacant land known as Chinaza Station, held under Fangtam numbers 87571, 87570, 76991, 79902, and 79903—area mows 1.872, 1.811, 1.989, 9.393 and 1.130.
8. Vacant land on the corner of Chowkiatsui Road (Point Road) and Liaoyang Road, held under B.C. Lot number 12901 and Tu-de-Jen numbers 5775 and 13410—area mows 0.228, 1.109 and 0.033.

Alexander E. Shvetz asserted that claimant, SHVETZ REALTY CORPORATION, was organized on June 10, 1948 under the laws of the State of Delaware and dissolved on December 27, 1965. Mr. Shvetz also asserted that all the shares of stock of claimant corporation were owned by him, a national of the United States since March 31, 1955. No evidence was submitted to establish that claimant corporation or its predecessor-in-interest, Alexander E. Shvetz, owned any of the property asserted in the claim and that such property was nationalized by the Chinese Communist regime. The Proposed Decision further noted that the entire outstanding capital stock of claimant corporation was assertedly owned by a nonnational of the United States until March 31, 1955, when Alexander E. Shvetz was naturalized. Claimant, through counsel, was advised on several occasions as to the type of evidence to submit in support of this claim. Such evidence was never submitted. The Proposed Decision denied the claim in its entirety.

None of the elements of ownership, taking and value were established. The burden of proof had not been met.

Counsel has submitted some probative evidence in support of his objections to the Proposed Decision. However, the Commission finds that evidence basic to all parts of this claim are outstanding so that the Commission is unable to make a positive finding as to any part of the claim. The evidence still outstanding is as follows:

- (1) Claimant Alexander E. Shvetz has not established that he was the sole stockholder of the corporation SHVETZ REALTY CORPORATION.
- (2) Claimant has not established that all *eight* properties herein were taken by the Chinese Communist regime on or after March 31, 1955, the date of claimant's naturalization.
- (3) The June 17, 1948 letters of Brandt & Rodgers, Ltd. containing the description of the asserted properties are addressed to R. Shvetz, Esq., Asia Trading Co., not to the claimant herein. They do not establish the ownership in claimant of the buildings as described in the letters.
- (4) *Property No. 1.* No proof of ownership; no land area given.
Property No. 2. Is established as far as land only.
Property No. 3. Same as Property No. 1.
Property No. 4. Same as Property No. 2, but only for lot #11341.
Property No. 5. Appears claimant owned half of land and M. E. Kapt-san owned second half.
Property No. 6. No proof at all submitted.
Property No. 7. Same as Property No. 5 except lot #79902 is 1.943 mow not 9.393 mow.
Property No. 8. Tax receipt is to R. Shvetz, not claimant; no area of land established.

In view of the foregoing, the Commission concludes that the burden of proof has not been met. Accordingly, it is

ORDERED that the Proposed Decision be amended to conform to the foregoing and be entered as the Final Decision on this claim.

Dated at Washington, D.C., February 17, 1971.

PROPOSED DECISION

This claim for \$450,000 against the Chinese Communist regime under title V of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of claimant's assets in Shanghai, China. Claimant states that SHVETZ REALTY CORPORATION was organized on June 10, 1948 under the laws of the State of Delaware and dissolved on December 27, 1965. Claimant further states that all the shares of stock were owned by Alexander E. Shvetz, a national of the United States since March 31, 1955, the date of his naturalization.

Under title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§ 1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

The Regulations of the Commission provide:

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

Claimant has failed to submit any evidence to show that SHVETZ REALTY CORPORATION or its predecessor in interest, Alexander E. Shvets, owned any property in Shanghai, as asserted in the claim, and that such property was nationalized or otherwise taken by the Chinese Communist regime. It has been noted that the entire outstanding capital stock of SHVETZ REALTY CORPORATION was owned by a non-national of the United States until March 31, 1955, when Alexander E. Shvets became a naturalized citizen of the United States.

Claimant, however, gave no specifications concerning the property involved in this claim nor does the record disclose when and how the claim arose. By Commission letter of December 17, 1969, claimant's counsel was advised to submit any evidence claimant might have; and on February 20, 1970, he was invited to submit the evidence within 30 days from that date, because, absent such evidence, it might become necessary to determine the claim on the basis of the present record. Claimant's counsel requested on March 4, 1970 an extension of time for the submission of evidence. This request was denied on March 6, 1970, but in spite of this fact, no evidence whatever was submitted.

The Commission fully appreciates that many claimants may encounter difficulties in obtaining evidence in support of their claims. That is not to say, however, that the existence of such difficulties should be used as a basis for findings leading to decisions favorable to claimants where such findings are not warranted by the records in the claims.

The Commission finds that claimant has not met the burden of proof in that it has failed to establish the United States nationality of the principal stockholder at the time of the loss, the ownership of rights and interests in property and the nationalization or taking of this property by the Chinese Communist regime. Accordingly, this claim is denied in its entirety.

The Commission deems it unnecessary to consider other elements of this claim.

Dated at Washington, D.C., April 1, 1970.

EXHIBIT 20

FINAL STATISTICAL REPORT ON CHINA CLAIMS PROGRAM

Claims filed	579
Withdrawals	3
Dismissals	0
Claims on which Final Decisions were issued	576

	<i>No. of Claims</i>	<i>Amount</i>
Final Awards	384	\$196,861,834.
Final Denials	192	
	<hr/> 576	

**TABULATION OF AWARDS BY THE FOREIGN CLAIMS SETTLEMENT COMMISSION
IN THE CHINA CLAIMS PROGRAM**

<i>Type of Claimant</i>	<i>Number of Claims*</i>	<i>Total Dollar Value</i>	<i>Number of Claims Under \$10,000</i>	<i>Value of Claims Under \$10,000</i>	<i>Number of Claims Over \$10,000</i>	<i>Value of Claims Over \$10,000</i>	<i>Number of Claims Over \$500,000</i>	<i>Value of Claims Over \$500,000</i>
Individuals	539	\$ 14,377,726	343	\$897,400	196	\$ 13,480,326	3	\$ 2,867,500
Corporation	44	122,823,554	1	9,049	43	122,814,505	14	119,268,900
Other Businesses	12	1,394,170	6	30,736	6	1,363,434	1	750,000
Religious and other Non-profit Organiza- izations	82	58,266,394	13	61,460	69	58,204,934	20	53,479,150
TOTALS	677	\$196,861,844	363	\$998,645	314	\$195,863,199	38	\$176,365,550

• FCSC NOTE
No. of claims 579
No. of claimants 677

FOREIGN CLAIMS SETTLEMENT COMMISSION
CHINA CLAIMS PROGRAM
BUSINESS CORPORATIONS WITH CERTIFIED LOSSES
OF
ONE MILLION DOLLARS OR MORE

CLAIMANT

1. Shanghai Power Company	\$53,832,885
2. Esso Standard	27,026,602
3. Caltex Limited	15,443,700
4. IT & T Corporation	7,765,315
5. General Electric Company	4,546,200
6. International Standard Electric Corp.	3,228,853
7. Western District Power Co. Shanghai	1,758,685
8. First National City Bank	1,562,145
9. Shanghai Wharf and Warehouse Company	1,042,862

**TABLE OF CASES REPORTED
CHINA CLAIMS PROGRAM**

	Page
Alcone, Isabelle O.	497
American Express International Banking Corporation	451
China Medical Board of New York, Inc.	440
Coole, Arthur B., et al.	437
Day, Clarence Burton, et al.	435
Fette, Franklin Russell	448
General Electric Company	459
McGlashen, Irene	454
Missionary Sisters of the Immaculate Conception	458
Rosary Mission Society, Inc.	456
Shanghai Power Company	474
Shanghai Wharf & Warehouse Company, Federal Inc., U.S.A.	478
Shvetz Realty Corporation	502
Society of the Congregation of the Mission of St. Louis, Missouri	481
United Board for Christian Higher Education in Asia	468

