

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

In the Matter of the Claim of

G. F. VANDEGRIFT

Under Title V of the International Claims  
Settlement Act of 1949, as amended

Claim No. CN-0123

Decision No. CN-

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PROPOSED DECISION

This claim for \$2,500.00 against the Chinese Communist regime, under Title V of the International Claims Settlement Act of 1949, as amended, is based upon the loss of personal property at Labrang and Taochow, province of Kansu, China. Claimant, G. F. VANDEGRIFT, has been a national of the United States since his birth on November 30, 1917.

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 interest 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 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 statements of the Rev. M. G. Grienbenow and Minnie A. Fesmire, who had personal knowledge of claimant's stay in China and of claimant's property; and the statement of the Secretary of The Christian and Missionary Alliance, claimant's employer. The Commission deems such evidence as sufficient in this case.

Based on the entire record, the Commission finds that claimant, G. F. VANDEGRIFT, while serving as a missionary under the auspices of

The Christian and Missionary Alliance, was stationed at Labrang and Taochow, Kansu, China in 1949; that claimant owned certain personal property consisting of household furnishings, medical supplies, professional books, food stores, and personal effects; and that claimant was forced to abandon this personal property at the missionary stations when he was ordered by the Chinese Communist regime to leave China by plane and transport no more than fifty pounds of cargo.

Claimant has been unable to furnish the exact date on which his property was taken by the Chinese Communist regime. He does state, however, that he was forced to abandon this property in June of 1949 and that it was subsequently taken by the Chinese Communist forces. The Commission further finds that said abandonment constituted a taking under the Act and, in the absence of evidence to the contrary, claimant's property was taken by the Chinese Communist forces on October 1, 1949, the initial date of the period encompassed under Title V.

Claimant states that the property in question had a value of \$2,500.00. The Commission finds the claimed items of personal property were reasonable and necessary to claimant's station in life and the value to be fair and reasonable. The Commission concludes that claimant suffered a loss in this amount within the meaning of Title V of the Act.

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 G. F. VANDEGRIFT suffered a loss in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) 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

AUG 27 1969

CERTIFICATION  
This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on SEP 29 1969  
*Francis M. ...*  
Clerk of the Commission

*Leonard v. B. Sutton*  
Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*Sidney Freidberg*  
Sidney Freidberg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. §531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 [1967].)

The statute does not provide for the payment of claims against the Chinese Communist regime. Provision is made only for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations.