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

In the Matter of the Claim of HELMA MARGUERITE de THIERRY, 237 East 72nd Street, New York 21, New York. Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949	:	Docket No. Y-291 Decision No. 300-A

Counsel for Claimant:

SMITH, SARGENT, DOMAN & GRANT,
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PROPOSED DECISION OF THE COMMISSION

This is a claim for $180,201 by Helma Marguerite de Thierry, a citizen of the United States since September 14, 1921, the date on which she derived such citizenship by marriage, and is for the taking by the Government of Yugoslavia of real property, personal property, rents and a bank account, as will be further described subsequently. The claim in the amount of $9,600 for the bank account was denied by Decision No. 300. This decision will be limited to the remaining items of property which will be dealt with seriatim.

Real Property at Rijeka (Fiume)

Claimant alleges that she owned a three-fourths interest in improved real property located at Via Remai No. 1, Rijeka. The amount claimed for this property is $72,198. She has filed a certified copy of a decree of inheritance dated May 4, 1951, issued by the County Court of Rijeka concerning the estate of claimant's mother, Eugenia de Thierry, who is stated in the decree to have died on July 20, 1946. The decree awards, inter alia, a one-fourth interest

to claimant in property registered under Docket No. 1092, Rijeka. However, a certified extract from the Land Register of the County Court of Rijeka (Cadastral District 1092) filed by the Government of Yugoslavia, shows that claimant's deceased mother owned a three-fourths interest in 1 parcel of land with an area of 197 square fathoms described as "House No. 1 with courtyard in Remai Street." The Government of Yugoslavia concedes, and this Commission finds, that claimant acquired the ownership of a three-fourths interest in this property by inheritance and that it was taken by the Government of Yugoslavia on April 28, 1948, pursuant to the Second Nationalization Act of April 28, 1948 (Official Gazette No. 35 of April 29, 1948).

As will appear subsequently, certain other real property of claimant was taken on February 6, 1945, pursuant to the Enemy Property Law of November 21, 1944, infra. We have previously held that when certain property of a claimant is taken under the law of November 21, 1944 because of ethnic German origin, any and all other property of the claimant would pass into state ownership on the effective date of that law (February 6, 1945) which took all property owned by people of ethnic German origin. (Decision No. 761, In the Matter of the Claim of Jacob Dohm, Docket No. Y-648). However, in that case and in the other cases in which that principle was invoked the property involved lay exclusively within the territorial limits of Yugoslavia. In the instant case, however, the real property was located in Fiume (Rijeka), which was Italian territory on February 6, 1945.

By Article 1 of the Law of November 21, 1944, the property of Yugoslav citizens was covered by the law "regardless of whether the property is situated within the country or abroad." No contention

has been made by the Government of Yugoslavia that claimant was considered a Yugoslav citizen. On the contrary, that Government concedes that the Rijeka property was nationalized under the Law of April 28, 1948, supra. That law nationalized, inter alia, "all real property owned by foreign citizens," with certain stated exceptions not here applicable, and authorized the Ministry of Justice to "issue the necessary instructions for the transfer to the State of nationalized real property." Instructions issued on June 23, 1948, pursuant to such authority, contain the following definition of "foreign citizens" (Official Gazette No. 53, June 23, 1948):

> "IX. Our emigrants who have acquired foreign citizenship but who have not obtained a release from our citizenship, and who neither have a decree from the Ministry of the Interior stating that they have lost their citizenship nor that their citizenship was revoked, are not considered foreign citizens. Therefore the real property of such persons is not nationalized, regardless of the class of property and regardless of whether they are farmers or not."

Accordingly, the fact that claimant's property at Rijeka was taken under the Law of April 28, 1948, indicates that claimant was not considered a Yugoslav citizen. This being so, it appears that the Law of November 21, 1944, did not purport to take claimant's real property in Rijeka, and we conclude that it did not do so. We do not intend to indicate here that we would give extra-territorial effect to that law if it did purport to take her real property on Italian territory. That is a question which we need not, and do not, decide herein.

Claimant has filed no evidence with respect to value other than a document dated in January 1944 in which the value of the apartments has apparently been capitalized from the annual rents at 1,829,031 lire. A three-party commission designated by local authorities has appraised the property at 556,749 lire. An investigator for this Commission has appraised the land at 528,000 dinars and the building at 1,995,840 dinars. Both appraisals were made on the basis of 1938 values.

The Commission is of the opinion, on the basis of all evidence and data before it, that the fair and reasonable value of this real property was 2,523,840 dinars as of the year 1938.*

The inheritance decree referred to above states that ownership in the name of the claimant will be entered in her name when the inheritance tax has been paid. The claimant concedes that such a tax has not been paid.

Under the laws of Yugoslavia, a person who succeeds to real property by inheritance, such as the claimant herein, is obligated to pay inheritance taxes on the value of the property. (See Law Concerning Direct Taxation, effective January 1, 1946, Article 24, Official Gazette No. 854, November 20, 1945). The People's Court is prohibited from transferring title to the heir unless and until such inheritance taxes are paid (Revised Law Concerning Direct Taxation of August 14, 1946, Article 64, Official Gazette No. 67, August 20, 1946). Thus, the value under local law of an heir's interest in real property must be regarded as being the value of the property less the inheritance taxes charged against it and which must be paid before the transfer of title can be accomplished. As awards may be made only for the value of the property taken or, as is the case here, for the value of an interest in property, a deduction must be made for inheritance taxes.

The value of the three-fourths interest in the property inherited from claimant's deceased mother is 1,892,880 dinars. Under the applicable tax law (Inheritance and Gift Tax Law of March 18, 1947, Official Gazette No. 25, March 26, 1947) the tax on property valued at 1,892,880 dinars (claimant's three-fourths interest) and inherited by a child is 19% or 359,647 dinars. That amount deducted from 1,892,880 dinars leaves 1,533,233 dinars as the value of claimant's interest in the property, which, converted into United States dollars at the rate of 44 dinars to 1 dollar, the rate adopted by the Commission in making awards based upon evaluations as of the year 1938, equals $34,846.14.*

Real Property at Stromlje, Woltschje and Brezice (Rann)

Claimant alleges ownership of a 60.62% fractional interest in real properties located at Stromlje, Woltschje and Brezice (Rann), the total value of which she alleges is $40,000. Claimant has filed a certified extract dated October 6, 1944 from the Land Register of the County Court of Brezice (Docket Nos. 15 and 21, Cadastral District of Stromlje, Docket No. 23, Cadastral District of Woltschje and Docket No. 128, Cadastral District of Brezice) covering 95 parcels of land. This Commission's investigator reports that there are structures on 6 of the parcels consisting of 3 houses, wine cellar, shelter for a wine press and farm-buildings. Ownership of the property is recorded as follows:

Eugenie de Thierry	68/320
Federica (Fredericke) de Gorgey	63/320
Claimant	63/320
Emilio (Emil) de Thierry	63/320
Carl (Karlo) Laval de Thierry	63/320

Claimant alleges that she inherited the interest of her deceased mother, Eugenie de Thierry, and the inheritance decree of the County Court of Rijeka of May 4, 1951, previously mentioned, awards her mother's interests in these properties to her. However, an official of the Yugoslav Government reports and this Commission's investigator confirms that the properties at Stromlje, Woltschje and Brezice were taken by the Government of Yugoslavia on February 6, 1945, pursuant to the Enemy Property Law of November 21, 1944 (Official Gazette No. 2 of February 6, 1945). We find, accordingly, that the date of taking was February 6, 1945, which is prior to the death of claimant's mother on July 20, 1946. While no evidence as to the citizenship of claimant's deceased mother has been filed, it is assumed that she was not a national of the United States. The Agreement of July 19, 1948, between

the Governments of the United States and Yugoslavia settled "all claims of nationals of the United States" for the "nationalization or other taking by Yugoslavia of property" (Article 1), provided they were nationals of the United States "at the time of nationalization or other taking" (Article 2). It expressly excluded nationals of the United States "who did not possess such nationality at the time of the nationalization or other taking" (Article 3). Since claimant's deceased mother was not a national of the United States at the time of taking, neither her claim nor any claim by a successor in interest thereto was settled by the Agreement of July 19, 1948, and it is not, therefore, within the jurisdiction of this Commission.

In addition, claimant alleges that she acquired the interest in the property of her deceased brother, Carl Laval de Thierry. A death certificate establishes his death on December 13, 1938. Claimant has filed the affidavits dated July 1, 1954, of her brother Emilio de Thierry and of one Dr. Peter Breycha-Zuliany, who swear that they know that Carlo Laval de Thierry died on December 13, 1938 unmarried, without children and intestate. The law of the situs of the real property is governed by the Austrian Civil Code of 1811, as amended. Applying Section 735 of the Code to the facts in this case, a one-half interest in the estate of claimant's deceased brother would go to claimant's mother, Eugenie de Thierry, and the other one-half interest would pass to the surviving brothers and sisters -- in this case a one-third share each to claimant, to her brother, Emilio de Thierry, and to her sister, Federica de Gorgey. As to the interest passing to claimant's deceased mother, no claim can be allowed here for such interest for the reasons stated above. The affidavits of Emilio de Thierry and Dr. Peter Breycha-Zuliany state that the former and Federica de Thierry "have renounced" their shares in their inheritance in favor of claimant. Emilio de Thierry states he is an Austrian citizen. No evidence has been filed regarding the citizenship of Federica de Thierry, and it is assumed that

she was not a national of the United States. No evidence has been filed that the interests they inherited from their deceased brother in the property passed to the claimant prior to February 6, 1945, the date of taking, by renunciation or otherwise. The affidavits apparently refer to a past renunciation, but no evidence as to the fact of or the date of such renunciation has been submitted. Accordingly, for the reasons previously set out, since they were not nationals of the United States at the date of taking, neither their claims nor any claim by a successor in interest thereto was settled by the Agreement of July 19, 1948, and it is not, therefore, within the jurisdiction of this Commission.

We do not allow, therefore, the claim for the interests in the property owned by Carlo Laval de Thierry and inherited by claimant's deceased mother, Eugenie de Thierry, her brother, Emilio de Thierry, and her sister, Federico de Thierry. We conclude that claimant's sole interest in this property is the 63/320ths interest shown in the extract from the Land Register plus an inherited one-sixth of the 63/320ths interest in the property owned by her deceased brother, Carl Laval de Thierry. Accordingly, her total interest in this property is 441/1920ths.

The only evidence regarding value filed by claimant is a photocopy of an insurance policy dated September 6, 1943 according to which "objects" on the properties were insured for 50,730 Reichsmarks. No appraisal has been submitted by the Yugoslav Government. An investigator for this Commission has appraised the land at 1,139,750 dinars and the structures at 352,028 dinars.

The Commission is of the opinion, on the basis of the evidence and data before it, that the fair and reasonable value of the real properties located at Stromlje, Woltschje and Brezice was 1,491,778 dinars as of the year 1938.*

The investigator reports that one of the four structures on parcel No. 21, Docket No. 21, Stromlje, was destroyed and it was not included

in the appraisal. It is understood therefrom that the property was destroyed by military action or by natural causes before the property was taken, and not by Yugoslav authorities. In any event, no evidence indicating otherwise has been filed. The Agreement of July 19, 1948 between the Governments of the United States and Yugoslavia settled claims for "the nationalization and other taking by Yugoslavia of property" (Article 1). It is our view that destruction of property by forces or causes such as those mentioned above is not a "nationalization" or "taking" of property by the Government of Yugoslavia. We, therefore, hold that claims for losses of that kind were not settled by the Agreement of July 19, 1948, and are not within the jurisdiction of this Commission.

For the reasons stated with respect to the real property located at Rijeka, a deduction must be made for inheritance taxes on the 63/1920ths interest in the property inherited by claimant from her deceased brother, Carl Laval de Thierry. The value of this interest is 63/1920ths of 1,491,778 dinars or 48,949 dinars. Under the applicable tax law, supra, the tax on property valued at 48,949 dinars and inherited by a brother or sister is 12% or 5,874 dinars. That amount deducted from claimant's 441/1920ths share in the property (342,643 dinars) leaves 336,769 as the value of claimant's interest.

According to the above-mentioned land extract filed by the claimant, all interests, with the exception of that of Carl Laval de Thierry, are encumbered by a mortgage of 200,000 dinars "with 14% interest, 14% accrued interest for the remaining annuities and as security for certain credits in the sum of 2,000 dinars" in an amount proportionate to the fractional interest of each in the property. No evidence has been filed that the mortgage has been satisfied. Claimant's attorney has, however, quoted from a letter from one Dr. Leon Vio, an attorney in Rijeka, who states that the term "geloscht" in the land extract means that the debt

was paid and the mortgage extinguished. However, an examination of the land extract shows that the term "Geloscht und Loschungen" ("cancelled and cancellation") refers to other entries in the encumbrance list of the land extract and has nothing to do with the entry affecting this mortgage which is clearly recorded as an outstanding encumbrance.

In the circumstances, we are of the opinion that a deduction for the mortgage must be made. In arriving at this decision we have not failed to consider that the claimant may be obligated to satisfy the debt for which the mortgage was given as security. However, the likelihood that the claimant herein, or that any claimant whose Yugoslav property was mortgaged, will be called upon to do so seems sufficiently remote as to be practically non-existent. A suit on the mortgage may be barred by time limitations; the mortgagee, if a Yugoslav financial institution, has either been nationalized or liquidated; the mortgagor and the mortgagee may not know the whereabouts of each other; the mortgagor and mortgagee may reside in different countries with the result that suit or payment may be impracticable; any recovery by the mortgagee from the mortgagor may be limited to 10% of the debt because of the pre-war debt devaluation law of October 27, 1945 (Law on Settlement of Pre-War Obligations, as amended, Official Gazette No. 88, November 13, 1945; Official Gazette No. 66, August 16, 1946); or, finally, the mortgagee, if a citizen of the United States, may look to this Commission for compensation for the loss of his security.

The Commission, in its determination of claims against Yugoslavia, is directed by the International Claims Settlement Act to apply (1) the terms of the Agreement with that country and (2) the applicable principles of international law, justice and equity, in that order. The Agreement contains no specific provision regarding mortgages. We have found no applicable decisions of arbitral tribunals, international or domestic, having responsibility for the determination of claims which were satisfied

by the payment of a lump-sum. (Because of the comparatively recent acceptance of lump-sums in settlement of large blocks of international claims, it is doubted that there are reported decisions directly in point.)

It is our view that justice and equity to all claimants require a deduction for mortgages under the circumstances involved in the claims before us, whether the property was taken before or after the above-mentioned Yugoslav debt settlement law became effective. The lump-sum of $17,000,000 has been provided for the satisfaction of all claims. As the claims filed aggregate many times that amount, the fund may be insufficient to pay all claims allowed in full. In these circumstances we believe we are obligated to limit our awards to actual proven losses and not to make awards for contingent losses which may never materialize. We also believe that when many claimants have to share in a fund which may prove inadequate, one claimant should not receive a windfall or be enriched at the expense of other claimants. That would be the case if a claimant who was awarded the full value of his property made no payment on the mortgage, or satisfied the mortgage debt by payment of only 10% of the mortgage pursuant to the Yugoslav debt settlement law. Accordingly, we hold that, in the absence of evidence that a mortgage of record has been satisfied, a deduction for the mortgage must be made in order to reflect the actual amount of claimant's loss. We find that the proper amount to deduct for the mortgage, including interest, in this claim is 65,231 dinars.

To summarize, the value of claimant's interest in the real properties located at Stromlje, Woltschje and Brezice is computed as follows:

Appraised value of the properties:	1,491,778 dinars
Claimant's 441/1920ths interest:	342,643 "
Less inheritance taxes:	5,874 "
	336,769 "
Less mortgage:	65,231 "
Remainder:	271,538 dinars

The latter amount converted into dollars at the rate of 44 dinars to 1 dollar, equals $6,171.32.*

Rents from the Real Property at Rijeka (Fiume)

The claimant asks $24,000 for rents from the property located at Rijeka (Fiume) from the spring of 1948 "when the City came under Yugoslav administration" until July 19, 1948, the date of the Claims Agreement. Claimant has filed evidence with respect to the income from the apartments in 1944 and 1945.

The Commission, in its determination of claims against Yugoslavia, is directed by the International Claims Settlement Act of 1949 to apply (1) the terms of the Agreement with that country and (2) the applicable principles of international law, justice and equity, in that order. The Agreement between the Governments of the United States and Yugoslavia contains no specific provision regarding loss of use of property, loss of profits, and the like. Generally, international and domestic arbitral tribunals in the determination of international claims allow compensation for indirect damages such as loss of use of property, loss of profits and the like, if such losses are reasonably certain and are ascertainable with a fair degree of accuracy. They do not allow compensation for indirect damages if they are conjectural or speculative or not reasonably certain or susceptible of accurate determination. See Borchard, Diplomatic Protection of Citizens Abroad, Sections 172, 173 and cases cited therein.

We are of the opinion that it has not been proven that it was reasonably certain that the profits expected or any profits would have been realized by claimant. The claim for such profits must therefore be denied. However, claimant may be compensated in terms of interest for the loss of the use of the compensation she was entitled to receive on the date the property was taken, from the date of taking to the date of payment by the Government of Yugoslavia. Both the Agreement with Yugoslavia and the International Claims Settlement Act contemplate the allowance of interest by the Commission for the delay in payment of compensation by the Government of Yugoslavia. Interest will therefore be allowed.

Personal Property

The claimant alleges the taking by the Government of Yugoslavia of furnishings located on the property at Stromlje in which she owned a 60.62% interest in the total amount of $25,000 and in an apartment in the house in Rijeka in the amount of $35,000.

No corroborating evidence as to ownership, value or taking by the Government of Yugoslavia of personal property at Stromlje has been filed. This Commission's investigator reports that no trace could be found of any items of personal property and the concensus of opinion of persons interviewed was that occupation forces either took the property or it was destroyed or otherwise lost. Claimant has not sustained the burden of proof with respect to the claim for the taking by the Government of Yugoslavia of any personal property which she owned at Stromlje and the claim therefor must be denied.

As to personal property located in an apartment in the house at Rijeka, the will of claimant's deceased mother makes no mention of personal property and the inheritance decree of May 4, 1951, states that there is no "moveable estate." With respect to failure of the decree to mention personal property, claimant's attorney quotes from a letter from Dr. Leon Vio, the Rijeka attorney who obtained the decree, as follows:

> "In the distribution decree of the estate personal property is not mentioned because these assets were never mentioned to me, and also because after the recent events of the war they did not exist."

In its report, the Yugoslav Government denies that it has taken over the personal property and asserts that "the same inasfar as it was in existence, has been plundered and carried off during war operations."

However, claimant has filed the affidavit of her brother, Emilio de Thierry in which he states that he was last in the apartment on April 27, 1945, when Yugoslav authorities took over Fiume, and that he had knowledge of its contents at such time, as set out in a list attached to the affidavit. In addition, claimant has filed the affidavit

of one Stefano Pauk, who swears that on April 27, 1945, Emilio de Thierry handed over to his wife the keys of the "de Thierry apartment," that in October 1946 he was asked by a Yugoslav authority to deliver the key to the Government office in charge of such matters, and that he has no knowledge of anyone having entered the apartment between April 27, 1945 and October 1946. The affiant adds:

> "I was present when the Jugoslav authorities officially opened the apartment, loaded the furniture and all other contents on trucks and removed them to destination unknown to me. Thereafter and prior to my departure from Jugoslavia I was in the municipal theater of Fiume and recognized on the stage some of the de Thierry antique furniture of Maria-Teresia period, as well as the two Roman marble statues, which were removed as stated above."

In this connection, claimant has filed the affidavit of her daughter, Rose Gail, who swears that her grandmother, Eugenia de Thierry, owned two Roman busts which she had seen many times in her grandmother's apartment, and that she has seen comparable ones valued at $10,000 each.

We conclude that claimant has met the burden of proof as to the taking of personal property by Yugoslav authorities from the apartment in Rijeka. In the absence of specific information it will be assumed that the date of taking was October 15, 1946.

While the will of claimant's deceased mother makes no mention of personal property, both it and the decree of inheritance name the claimant as the "universal heir." Under the Civil Law, universal succession means succession to the entire estate of the decedent. Sections 554 and 556 of the Austrian Civil Code of 1811, as amended, which are applicable here provided:

> "If the testator designated one sole heir, without qualifications and without restrictions to any part of the estate, such heir takes the entire estate.
>
> "If the testator designated one heir to his entire estate, the legal heirs by intestacy are not entitled to any property, even though the testator had omitted something in the calculation of the amounts or in the items of the estate."

We conclude, therefore, that claimant inherited the entire interest

in her mother's personal property, and we further find that the value of such property taken by the Government of Yugoslavia was $6,000.

AWARD

On the above evidence and grounds, this claim is allowed to the extent indicated and an award is hereby made to Helma Marguerite de Thierry, claimant, in the amount of $47,017.46 with interest on $34,846.14, $6,171.32 and $6,000, respectively, of that amount at 6% per annum from April 28, 1948, February 6, 1945, and October 15, 1946, respectively, the dates of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amounts of $658.73, $1,310.68 and $665.76, respectively.*

Dated at Washington, D. C.

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* For the Commission's reasons for use of 1938 valuations, use of exchange-rate of 44 to 1, and the allowance of interest, see attached copy of its decision in the claim of Joseph Senser.

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

In the Matter of the Claim of HELMA MARGUERITE de THIERRY 237 East 72nd Street New York 21, New York Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949	Docket No. Y-291 Decision No. 300-A

Counsel for Claimant:

SMITH, SARGENT, DOMAN & GRANT
521 Fifth Avenue
New York 17, New York

approved
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FINAL DECISION

A Proposed Decision was entered in this claim in which an award was made to Helma Marguerite de Thierry, claimant, in the amount of $47,017.46 plus interest in the amount of $2,635.17. Subsequent to the issuance of the Proposed Decision, the claimant, through her attorney, filed objections to the Proposed Decision with accompanying evidence. The Government of Yugoslavia filed a brief, as amicus curiae, and evidence of value to support its contention that the amount of the award was excessive.

The first point raised by claimant's objections is that her deceased mother, Eugenie de Thierry, was not a person of ethnic German origin and her property therefore could not have been taken under the provisions of the Enemy Property Law of November 21, 1944.

In limine it is pointed out that the Commission made no finding whatsoever that the decedent was a person of ethnic German origin.

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The finding was that the property was taken on February 6, 1945, pursuant to the Enemy Property Law of November 21, 1944 (Official Gazette No. 2 of February 6, 1945). The evidence of claimant to the effect that her mother was not of German ethnic origin or citizenship is, therefore, irrelevant.

If we understand the purport of claimant's argument in this respect, however, it is that since the decedent was not of German ethnic origin or citizenship, her property could not fall within the terms of the Enemy Property Law, and therefore the property could not have been taken under that law, since it was mistaken or illegal. Claimant then selects a later law, the Nationalization Law of April 28, 1948, as the law taking the properties.

To entertain the notion that governments take property only if they abide by the provisions of their internal law in so doing is to put a premium on illegal procedures and discourage legal procedures. It would follow from claimant's argument that if the property of an American citizen were subjected to the Enemy Property Law, no claim would lie therefor, unless the action taken under the law was in conformity with its provisions.

We must and do reject so dangerous and fallacious a suggestion. The essence of an international claim is a denial of justice. A denial of justice, of course, would include the taking of property in a manner which does not conform to law. While it might benefit this particular claimant to consider that the property was not taken, because not taken pursuant to law, claimant's argument in this respect does not merit serious attention.

Claimant also argues that if the property in Sromlje, Woltschje and Brezice was taken under the Enemy Property Law, the property in Rijeka would necessarily have had to fall under the same law, but the

Commission found that the latter was taken pursuant to the Nationalization Law of April 28, 1948. We consider that this point was sufficiently discussed in the Proposed Decision, and there is no need to reiterate our holding in this respect. But we point out that the Enemy Property Law applied to German citizens only if it was situated in the territory of Yugoslavia. It purported to have extra-territorial effect only in the case of Yugoslav citizens and is not specific or clear with respect to persons of German ethnic origin.

As evidence that the property was not taken by the Enemy Property Law, but was taken subsequent to the death of her mother, claimant has submitted a letter by a Yugoslav attorney in Rijeka, who is stated to have been in contact with a local attorney at Sromlje-Brezice. The letter states:

> "with this I state that the estate in Sromlje was neither nationalised nor in any other way taken into possession by the Yugoslav authorities until the 20-VII-1946 (July 20, 1946), i.e. until the day when Mrs. Eugenie de Thierry died."

The suggestion that the Government of Yugoslavia forbore to take this property until the death of the mother, and then to take it on the very day she died, is not one which we find credible.

Finally, claimant has submitted evidence that the County Court of Rijeka in 1951 awarded her her mother's interests in the properties in Sromlje and that inheritance taxes were assessed against her. A document dated October 29, 1952, from the District Peoples Committee, submitted by claimant, warns that if inheritance taxes are not paid within 15 days after the receipt of the letter, "we shall be compelled to mortgage the real estate situated in this district".

Claimant apparently seeks to prove by this evidence that the court would not have awarded her her mother's interests in the

property, nor would inheritance taxes have been levied, if the property had been taken prior to her mother's death. From this premise claimant leaps to the conclusion that the property was nationalized on April 28, 1948, under the Second Nationalization Law. But this is obviously a non sequitur. If this evidence shows anything, it shows that in 1951 and 1952 the court and tax authorities had no knowledge, or did not consider, that the property had ever been taken by the Government of Yugoslavia, by the Nationalization Law or any other law.

We do not consider that claimant has shown that the properties in Sromlje, Woltschje and Brezice were taken by the Law of April 28, 1948, or at any time subsequent to the death of her deceased mother, and the Proposed Decision will not be disturbed in this respect.

Claimant's second objection is that the mortgage of 200,000 dinars on the Sromlje property was paid and cancelled. As evidence thereof she has filed a statement dated September 29, 1954, by the National Bank of Yugoslavia, Ljubljana Branch. This document recites:

> "The cancellation of this mortgage on the above-mentioned land records was consented to."

We consider that this evidence establishes that no mortgage in fact encumbered the property and no mortgage will be deducted from the value of claimant's interest in this property. Therefore, we find the value of claimant's interest to be 336,769 dinars or $7,653.84.

Claimant's third objection is that the value of the personal property, as found in the Proposed Decision, was too low, and has filed an appraisal by French & Company, Inc., 210 E. 57th Street, New York, based on claimant's description of the property. This appraisal values 6 of the items appearing on a list attached to an affidavit of Emilio de Thierry at $15,500.

While the appraisal is, of course, based on hearsay, we consider it to have some probative value and shall allow $25,000 as the value of all personal property taken by the Government of Yugoslavia.

Accordingly, thirty days having elapsed since the claimant herein and the Government of Yugoslavia were notified of the Commission's Proposed Decision on the above claim, and claimant's objections and the brief and evidence filed by the Yugoslav Government having received due consideration, in full and final disposition of the claim an award is hereby made to Helma Marguerite de Thierry, claimant, in the amount of $67,499.98 with interest on $34,846.14, $7,653.84 and $25,000, respectively, of that amount at 6% per annum from April 28, 1948, February 6, 1945, and October 15, 1946, respectively, the dates of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amounts of $658.73, $1,625.54 and $2,773.95, respectively, a total of $5,058.22.

Dated at Washington, D. C.

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