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

In the Matter of the Claim of

JURICA (GEORGE) BJANKINI
716 Fifth Street, N. W.
Washington, D. C.

Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949

Docket No. Y-989

Decision No. 1430

approved
Ate
12-27-54

Counsel for Claimant:

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Washington 4, D. C.

FINAL DECISION

By Proposed Decision No. 1430 of October 29, 1954, claimant was awarded $35,171.82 plus interest in the amount of $6,943.76.

Claimant filed exceptions to the Proposed Decision and requested a hearing. The Government of Yugoslavia filed a brief as amicus curiae objecting to the amount of the award.

A hearing was held on December 8, 1954. At the hearing claimant submitted additional evidence in order to prove that his apartment building in Zadar did not suffer such war damages as described in the Proposed Decision. He also submitted evidence in writing in order to prove that some or all of his real and personal property in Starigrad was requisitioned during the war and in the post-war period. He also submitted evidence in writing that certain taxes had been paid in the years 1931, 1935 and 1938 to the mining authorities in Split and Sibenik for the account of the claimant. He also submitted documentary evidence that certain

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parcels of real property in which claimant had a part interest were expropriated in 1947 under the Law on Agrarian Reform and Colonization. Claimant finally submitted a sworn statement by Maro Gucic, a relative of claimant, living in Chicago, Illinois in support of his claim.

Subsequent to the issuance of the Proposed Decision on October 29, 1954, the Government of Yugoslavia submitted an appraisal report for the real property in Zadar, in which the official Yugoslav appraisers state that the apartment building suffered war damages of approximately 35% of its original value and that the adjoining warehouse suffered war damages of approximately 5% of its original value.

Investigators for the Commission appraised the apartment building without the land at 1,702,400 dinars at 1938 values and deducted 851,200 dinars for war damage, which represents a deduction of 50% of the net value of the apartment building. The investigators did not deduct any amount from the value of the warehouse, because they considered war damages inflicted on that warehouse as practically negligible. We are of the opinion, that the Commission's investigators should have deducted only 35% for war damages from 1,702,400 dinars the value of the apartment building. Such 35% deduction would amount to 595,840 dinars. The original 50% deduction amounted to 851,200 dinars, so that claimant is entitled to an additional award for the difference between 851,200 dinars and 595,840 dinars. This difference amounts to 255,360 dinars or $5,803.64, at the exchange rate of 44 dinars to $1, adopted by the Commission in making awards based upon 1938 valuations.

The Commission is also of the opinion that claimant has proved by original decrees of the Commission for Agrarian Reform and

Colonization in Jelsa No. A2157/47 of September 19, 1947, No. A-2126/47 of September 21, 1947, No. A-107/47 of October 20, 1947, and No. A-3/47 of October 20, 1947 that the following parcels of land were expropriated for the purposes of agrarian reform on the aforesaid dates of the decrees:

Parcel No.	4577/1,	Docket No. 1352, Cad. Dist. Starigrad, Vineyard with 1198 square meters
" "	2741/3,	Docket No. 1424, Cad. Dist. Starigrad, Pasture with 2216 square meters
" "	4405 ,	Docket No. 1572, Cad. Dist. Starigrad, Vineyard with 874 square meters
" "	4488 ,	Docket No. 70, Cad. Dist. Starigrad, Vineyard with 2518 square meters.

According to certified extracts from the Land Registry of the District Court of Starigrad, filed by the Government of Yugoslavia and by the claimant, claimant had a 29/64 interest in these four parcels of land. The interest of the claimant in these four parcels was encumbered with 4/64 life interest in favor of Ivanka Biankini, widow of Peter Biankini of Starigrad, mother of the claimant who died in 1949. On the other hand, there is recorded in each of these four parcels claimant's vested remainder in a 3/64 interest in the land, presently held by his sister Sokola Penovic nee Biankini, which will pass to him or to his heirs after the death of the aforesaid sister. Under the principle "de minimis non curat lex", the life estate of claimant's mother and the remainder in the sister's estate, both amounting only to a small fraction of the property which will be considered as offsetting items, will be disregarded for the purpose of valuation by the Commission.

One of the parcels is pasture land, and the three other parcels are vineyards. In comparing the value of that land with similar land which was evaluated by the Commission in claims before this Commission, the Commission is of the opinion that the fair and reasonable value of pasture land such as that of claimant is 0.40

dinars per square meter, and that the fair and reasonable value of a vineyard is 5.50 dinars per square meter. Parcel No. 2741/3 with an area of 2216 square meters has consequently a value of 886 dinars and the three vineyards with a total area of 4,590 square meters, a value of 25,245 dinars totaling 26,131 dinars for all four parcels. The 29/64 interest of claimant in these four parcels amounts therefore to 11,841 dinars or $269.11 at 44 dinars to $1, the exchange rate adopted by the Commission in making awards based upon 1938 values.

The Commission also has considered claimant's objections with respect to the question of citizenship .. Claimant's argument is that he never was a Yugoslav citizen and that the Government of Yugoslavia cannot consider him as such. Consequently, his property in Starigrad must have been taken under the Law of April 28, 1948. We refer to our opinion In the Matter of the Claim of Mike Raseta, Docket No. Y-1112, Final Decision No. 853:

> "We are not in a position to refute the determination of the Yugoslav Government, that under its laws claimant is a citizen of Yugoslavia. Even if we did and proved to our satisfaction that claimant should not be considered to be a Yugoslav citizen, we could not compel Yugoslavia to change its position and take possession of claimant's property. We wish to emphasize, however, that we did not deny this claim on the ground that claimant is a citizen of Yugoslavia."

In the present case, we found that the claimant had not established that all the property in Starigrad had been taken by the Government of Yugoslavia and we are of the opinion that claimant has not proved that the entire property in Starigrad was nationalized or taken by the Government of Yugoslavia. Where claimant did prove that a taking occurred, the Commission has made an award, as in the case of the four parcels discussed above. No other evidence of taking having been submitted, nor any other reports of taking having reached the Commission, it is unable to make further awards for the property

in Starigrad. On the basis of all of the reports before this Commission, the major part of such property is still in possession of claimant's family.

The Commission has considered the evidence and argument regarding the other various items of claimant's properties and it is of the opinion that such evidence and argument does not warrant a further change in the Proposed Decision.

For the foregoing reasons, the Commission adopts such Proposed Decision as its Final Decision on the claim with the following exceptions:

1. The amount found as the value of the property is $41,244.57;

2. Interest at the rate of 6% per annum is awarded on the sum of $40,975.46 (for the property in Zadar) from May 7, 1945 to August 21, 1948 in the amount of $7,692.65 and on the sum of $269.11 (for the four parcels in Starigrad) from October 5, 1947, the average date of taking, to August 21, 1948 in the amount of $23.62.

Accordingly, in full and final disposition of the claim, an award is hereby made to Jurica (George) Bjankini, claimant, in the amount of $41,244.57, with interest thereon in the amount of $7,716.27.

Dated at Washington, D. C. DEC 30 1954

FOREIGN CLAIMS SETTLEMENT COMMISSION
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In the Matter of the Claim of JURICA (GEORGE) BJANKINI 716 Fifth Street, N. W. Washington, D. C. Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949	::	Docket No. Y-989 Decision No. 1430

Counsel for Claimant:

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PROPOSED DECISION OF THE COMMISSION

This is a claim for $517,959.61 by Jurica (George) Bjankini, a citizen of the United States since his naturalization on April 27, 1927, and is for the taking by the Government of Yugoslavia of the following property:

1. Apartment building in Zadar, personal property therein and loss of rents thereon;
2. Real property in Starigrad and vicinity and loss of rental therefrom, and personal property thereon;
3. Lease and concession rights for development of bauxite ore;
4. Interest in Rama Waterpower Exploitation Company;
5. Shares of stock in Ustipraca A. D. and a debt claim against it;
6. Shares of stock in Hrvatski Dom;
7. Sundry claims for deposits.

(1) Apartment Building in Zadar, Personal Property Therein and Loss of Rents Thereon

The Commission finds it established by a certified extract from the Land Register of the County Court of Zadar (Docket No. 1087,

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Cadastral District of Zadar), dated June 12, 1953 and filed by the Government of Yugoslavia, and by admissions of that Government that the claimant owned five parcels of land with a total area of 1103 square meters and with an apartment house and other structures on three of the parcels.

The position of the Government of Yugoslavia is that, although the claimant has acquired United States citizenship, he has not lost Yugoslav citizenship; that the property is, therefore, exempt from nationalization; that no restrictive measures have been applied to it; and that it may be sold or otherwise disposed of in the same way as the property of any citizen of Yugoslavia.

The Government of Yugoslavia in its nationalization program enacted two nationalization laws. The first, the Nationalization Law of December 5, 1946 (OFFICIAL GAZETTE No. 98, December 6, 1946), nationalized 42 kinds of "economic enterprises of general, national and republican importance," and did not include agricultural property such as that claimed herein.

The second law, the Nationalization Law of April 28, 1948 (OFFICIAL GAZETTE No. 36, April 29, 1948), nationalized additional kinds of "economic enterprises" and certain real property, including "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."

Thus, it appears that the Nationalization Law of April 28, 1948, as construed by the Ministry of Justice of Yugoslavia under authority conferred in the Act itself, is not applied by the Government of Yugoslavia as a taking of property of "foreign citizens" if such citizens have not lost Yugoslav citizenship. Apparently, the claimant, Jurica (George) Bjankini, has been held to be within that category.

This Commission's investigators inspected the property, examined the land records, and found that the local People's Committee had taken over the property shortly after World War II and operated it without the approval of the claimant. The property, consisting of an apartment building and a small warehouse, was damaged during the war, and was repaired without the consent of the claimant. The allocation of the apartments and all rents were collected by the local People's Committee. For all practical purposes, since World War II, the local People's Committee exercised all ownership rights in the property.

The question for our determination, therefore, is whether under these facts there has been a taking of claimant's property by the Yugoslav Government within the meaning of Article 1 of the Agreement.

That Article refers to the "nationalization and other taking of property." It is clear in this case that there has been no formal nationalization of the property and the term"other taking" is not defined in the Agreement. Turning to the legislative history of the International Claims Settlement Act of 1949 (Public Law, 455, 81st

Congress), for the views of United States Government officials who testified with respect to the objectives of the Agreement with Yugoslavia, frequent reference is found in the Hearings and Reports of the Congressional Committees to the words "nationalization" 1/, "expropriation" 2/, "confiscation" 3/, and "other taking" 4/, of property, and that the lump sum of $17,000,000 was accepted in settlement of claims for which Yugoslavia was liable under international law. 5/ There also appears to have been a disposition on the part of Congress to avoid explicit interpretation of the words "other taking." Thus, in the Senate Report on the Bill to create the former International Claims Commission, it is stated: "The problem is essentially judicial . . . It is believed that consistent with the intent of the Yugoslav Agreement, the specific application of 'other taking' should be left to the Commission." 6/ Nevertheless, the Report does express itself specifically with respect to the type of action to which the claimant's property has been subjected. The Report states:

> "The term 'other taking' in the Yugoslav Claims Settlement Agreement of 1948 is understood to be used in a broad generic sense. 'Nationalization' is in fact a specific form of 'taking' of property. 'Other taking' is designed to include all other deprivation or divesting of property rights for which compensation is properly allowable under the principles of international law, justice and equity. The Commission is not required narrowly to construe any portion of the proposed act, nor the term 'other taking.'

1/ Senate Report No. 800, 81st Congress, 1st Session, p. 10. Hearing on H.R. 4406, House of Representatives, 81st Congress, 1st Session, pp. 7, 14, 15.

2/ Senate Report No. 800, supra, pp. 3, 4.

3/ Senate Report No. 800, supra, p. 10. Hearing on S. 1074, U. S. Senate, 81st Congress, 1st Session, p. 14.

4/ Senate Report No. 800, supra, p. 10. Hearing on S. 1074, supra, pp. 13, 14; Hearing on H.R. 4406, supra, p. 14.

5/ Senate Report No. 800, supra, p. 3; Hearing on S. 1074, supra, p. 26.

6/ Senate Report No. 800, idem.

> "It is known that some property owners were effectively deprived of property rights by Yugoslav authorities without formal nationalization. 'Nationalization' under Yugoslav law called for compensation to be paid in accordance with Yugoslav law. Property and property rights have also been confiscated without compensation by Yugoslav authorities, placed under informal or formal sequestration, held under administration or put in the possession or control of others. Actual transfer of title in a normal sense may not have occurred, yet holders of property may have been effectively deprived of ownership of rights. Since the Yugoslav Agreement covers the period of September 1, 1939 to July 19, 1948, the intent was undoubtedly to encompass all actual deprivations of property." 7/

While this Commission is free to construe the term "other taking," the quoted passage is significant since it was largely based on the testimony of State Department representatives, some of whom had taken part in the negotiations leading to the Claims Agreement.

In the instant case, the property has been under the control and management of organs of the Yugoslav Government continuously since 1945. A state is liable for the wrongful acts of its officers from which it derives a benefit and the taking of private property for the public use or benefit has always been an accepted ground for an international claim for compensation. (Borchard, The Diplomatic Protection of Citizens Abroad, p. 184, and cases there cited.) While Yugoslav authorities may have been initially justified in taking custody of the property as abandoned at the end of the war, there has been no attempt to return it to the control of its owners, no accounting to them of income, no recognition whatsoever of their ownership rights other than allowing them to retain naked legal title. Even where the original taking of property is lawful, its unreasonable detention has been held to warrant an award (Baldwin (U.S.) v. Mexico, April 11, 1839, Moore's Arb. 3235; Shaw (U.S.) v. Mexico,

7/ Senate Report No. 800, supra, p. 10.

April 11, 1839, ibid. 3265; Bischoff (Germany) v. Venezuela, February 13, 1903, Ralston, 581 - all cited in Borchard, idem., f.n. 3).

Even were we to confine ourselves to a strict legal construction of these circumstances, and concede that the property was not taken from claimant because he is still the owner of the property under the law of the situs, Article 1 of the Agreement is not limited to the taking by the Government of legal title to property. The Agreement specially refers to "the nationalization and other taking by Yugoslavia of property and of rights and interests in and with respect to property." (Emphasis supplied) We have little difficulty in concluding that claimant's rights and interests in and with respect to property have been effectively taken from him since 1945.

We hold, therefore, that claimant's property or rights and interests in and with respect to the above-described property involved were taken by Yugoslavia and, in the absence of explicit information on that point, it will be assumed that the date of taking was May 7, 1945, the end of the European phase of World War II.

One further question remains to be resolved. In its report on this matter, the Yugoslav Government states that claimant can now dispose of the property on the same conditions as any other citizens of Yugoslavia. Thus, the Yugoslav Government appears in effect to be offering restitution while the claim here is for the value of the property. However, once it is established that the Yugoslav Government took the property within the period covered by the Agreement, it is not warranted in taking unilateral action to compensate claimants in some degree by restoring their property unless they waive dollar compensation by this Commission and accept restitution. The fact that claimants have filed a claim for compensation of course militates

against the notion that they are willing to accept restitution. Moreover, since the settlement of this claim was effected by an Agreement with Yugoslavia, it would not appear that the Yugoslav Government could thereafter elect to settle it by restitution unless such method of settlement is acceptable to the claimant and to the Government of the United States. We hold, therefore, that claimant is eligible to receive compensation under the Agreement, and the only remaining question is the value of the property.

The claimant has filed no corroborating evidence of value. An investigator for this Commission has appraised the land, the apartment house and the structures at 1,547,560 dinars on the basis of 1938 values.

War damages to the property are not included in this evaluation. This Commission's investigators report that about 50% of the apartment house was destroyed during the war, and before the property was taken, as a result of air bombardments. 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). Damage caused by war activities is not in our view a "nationalization" or "taking" of property by the Government of Yugoslavia. We, therefore, hold that claims for war damage of the sort involved herein were not settled by the Agreement of July 19, 1948 and are not within the jurisdiction of the Commission.

The property is encumbered with a life estate in favor of Peter Bjankini and Dr. Ante Bjankini, the sons of the late George. Claimant filed with his Statement of Claim a photostatic copy of a death certificate issued by the Board of Health of Cook County, Illinois, which shows that Ante Bjankini, a physician, the son of Juraj (George),

died on February 8, 1934, at the age of 72 in Chicago, Illinois. He also filed a photostatic copy of an original letter with its English translation, dated Split, September 29, 1928, in which claimant's sister, Nevenka, informed claimant that his father, Peter Bjankini, died. It further appears from affidavits executed by claimant on August 21, 1951, that Dr. Ante Bjankini and Peter Bjankini were brothers and that they died in 1928 and 1934, respectively. The same fact appears from other records on file in this claim. Consequently, the recorded life estate was extinguished prior to the time when the property was taken by the Government of Yugoslavia (May 7, 1945).

The land extract discloses that in 1946 a mortgage of 1,900,000 dinars with 3% interest thereon was placed on the property in favor of the State Investment Bank of the Federal People's Republic of Yugoslavia. It appears that this is a compulsory mortgage which was placed on the property after it was taken by the Government of Yugoslavia. The Commission's investigators report that the apartment house, which was badly damaged during the war, required repairs and reconstruction of the building. In order to accomplish this work, the local People's Committee obtained a loan of 4,000,000 dinars and made arrangements to repay the loan from rents collected by the People's Committee. We conclude that this mortgage was incurred and placed on the property after the property was taken, without the knowledge and consent of the claimant, and that it should not be deducted in determining the value of the property at the date of taking.

The claimant seeks compensation for lost rents during the period 1944 to 1948. As the Commission has held that this realty was taken by the Government of Yugoslavia immediately after it regained control of the Zadar area, it does not appear that the claimant has lost any rents

as a result of any action by that Government. Claimant also seeks compensation for the taking of personal property located in and on the realty. An investigation by the Field Branch of the Commission failed to show that the Government of Yugoslavia has taken any such property. The burden of showing that such property was taken by the Government of Yugoslavia is on the claimant and as he has not met that burden, these items of the claim must be denied.

The Commission is of the opinion, on the basis of all evidence and data before it, that the fair and reasonable value of the property of claimant which was taken by the Government of Yugoslavia was 1,547,560 dinars as of the year 1938.* That amount, converted into dollars at the rate of 44 dinars to $1, the rate adopted by the Commission in making awards based upon 1938 valuations, equals $35,171.82.*

(2) Real Property in Starigrad and Vicinity and Loss of Rental Therefrom, and Personal Property Thereon

The Commission finds it established by certified extracts from the Land Register of the County Court of Starigrad (Docket Nos. 70, 526, 1352, 1424, 1572, 1632, 1910, 2327, Cadastral District of Starigrad, and Docket No. 12, Cadastral District of Dol), filed by the Government of Yugoslavia, and by admissions of that Government, that claimant is a co-owner of numerous parcels of land with structures on some of them in the area of Starigrad and in Dol.

The position of the Government of Yugoslavia regarding this property is the same as with respect to the property in Zadar; that the claimant is considered a Yugoslav citizen under Yugoslav law and that, therefore, no restrictive measures were applied to the property for the reasons set forth above. Moreover, the Yugoslav Government reported that this property is managed by claimant's relative, Mrs.

Sokola Penovic, and that the claimant should apply to her if he wishes to exercise his ownership rights as a part-owner of the property.

This Commission's investigators interviewed claimant's sister, Mrs. Sokola Penovic on June 26, 1954. She informed the investigators that she exercises complete control over all real property in the Starigrad area and that none of that property has been nationalized or otherwise taken. She stated that one of the properties was being used as a school but she was, nevertheless, receiving rent from the local authorities for the use of the property. The investigators also interviewed some of the tenants on the property who stated that they were paying rent to claimant's sister or to her attorney.

Thus, it appears that the claimant, as set forth above, has not been held by the Government of Yugoslavia to be a "foreign citizen" and that the Nationalization Law of April 28, 1948 was not applied to this property. In the absence of actual interference with the property, of which there is no evidence, the claimant is not eligible to assert a claim for this part of his property.

Claimant's claim for personal property is predicated upon the loss of personalty which was located in Starigrad in the house of his family, consisting of furniture, a piano, paintings, a library, objects of art, jewelry, chinaware, antiques, wine cellar equipment, steel safes, etc. The claimant asserts that the said personalty was confiscated by the Government of Yugoslavia between 1944 and 1948, and infers that at least part of the property was requisitioned by Yugoslav military authorities during the war.

The Government of Yugoslavia, in its report, states that part of the personal property was plundered and carried off by the occupation authorities during the war and that after the "liberation," the claimant's sisters, Mrs. Vesna Markovic and Mrs. Sokola Penovic, took possession of

the balance of it. Claimant's losses, if any, represent war damages for which that Government is not responsible. This Commission's investigators interviewed Mrs. Sokola Penovic, claimant's sister, also regarding the personal property. She stated that all personal property lost and not now in possession of the family had been taken away or destroyed by enemy forces during World War II.

All this evidence indicates that the personal property, not now in possession of the family, was taken by Italian or German troops. Some of the property was returned to the family after the war. It appears that none of the art objects were confiscated by the Yugoslav Government. Discussions with the directors of the museums in Split, Sibenik, Dubrovnik and Sarajevo revealed that none of them knew of any artistic items previously owned by the family Bjankini, which had come into possession of their respective museums.

We conclude that the personal property not now in possession of the Bjankini family and formerly partly or fully owned by the claimant, was lost or destroyed during the war. As stated above, damage caused by war activities or by enemy forces is not in our view a "nationalization" or "other taking" of property by the Government of Yugoslavia. Claimant's claim for this part of his property is not within the jurisdiction of this Commission.

Claimant alleges that in 1944 Yugoslav military authorities occupied the properties in the Starigrad area, denied the use and enjoyment of said properties and took possession of same. He asserts a claim for $2,500 for the rentals not collected during that period. No evidence has been furnished by the claimant which shows that the Government of Yugoslavia took or occupied any of the claimant's property in that locality. Based upon an investigation by a staff member of this Commission, there is no evidence that the Government of Yugoslavia occupied the premises; therefore, this item must be denied.

(3) Lease and Concession Rights for Development of Bauxite Ore

Claimant alleges that he was the owner of 133 lease and concession rights for the development of bauxite ore in the area of Sibenik, which were all recorded in the Ministry of Forests and Mines in Belgrade, as well as at the regional office in Sibenik. Claimant further alleges that he and his father paid taxes regularly for 20 years. Tests were made of the bauxite ore with good results. According to the claimant, these rights were nationalized by the Government of Yugoslavia.

This Commission's investigators could not find that claimant or his father had any mining rights recorded in their names, which were nationalized or otherwise taken by the Government of Yugoslavia.

The examination of the records in Sibenik did not reveal that claimant's father held any such rights recorded in his name, either as owner or as lessee. The Government of Yugoslavia was in no position to ascertain that such rights were in existence at the time when all mines and enterprises for mine prospecting were nationalized under the Nationalization Act.

While this Commission tried to procure evidence from Yugoslavia, through that Government, and through the efforts of its own Field Branch in that country, the burden of filing evidence regarding ownership and other rights rests clearly with the claimant. Taking into consideration that claimant's father died in 1928 and that claimant was absent from Yugoslavia continuously since that time, it appears unlikely that any business enterprise could have survived and flourished from 1928 until and after World War II, without claimant having any records in support of the ownership of the property involved. In any event, claimant wholly failed to sustain the burden of proof and, apart from all other consideration, has not demonstrated his ownership to the mines or mining rights involved.

It may be mentioned in passing that the above mining rights, being in the nature of search rights, under the laws of pre-war Yugoslavia, were considered as automatically extinguished, if they were not renewed from year to year.

For the foregoing reasons, this part of the claim must be denied.

(4) Interest in Rama Waterpower Exploitation Company

Claimant further alleges that on October 15, 1920, claimant's father was given lease rights for 83 years for the exploitation and development of the waterfalls of the river "Rama" in Herzegovina, Yugoslavia. Claimant filed with his Statement of Claim a copy of an undated memorandum which describes the concession. This memorandum shows that at the time of writing no work had been started and that it was written for the purpose of attracting capital for a future venture. The claimant also states that his father spent considerable amounts of money for plans, blue-prints, drawings, estimates, surveys, for hydro-electric engineering expert opinions, assays and analyses for the project; but he does not allege that more than preparatory work had actually been started on the project.

This Commission's own investigators were unable to obtain any information, according to which claimant's father was the owner of the creditor of any enterprise connected with the "Rama," hydro-electric project. Investigations made in the Sarajevo area did not reveal that claimant's father actually owned the aforesaid concession or a partnership which took over the concession, nor could it be established that the concession or partnership had been nationalized or otherwise taken by the Government of Yugoslavia.

Taking into consideration that claimant's father owned the concession since 1920, it appears unlikely that such an enterprise could

have been in existence after the death of his father in 1928 and until after World War II without the claimant's having any records on hand in support of the ownership of the property involved. In any event, claimant wholly failed to sustain the burden of proof and, apart from all other consideration, has not demonstrated the ownership of the concession or of the partnership which allegedly took over the concession.

It may be mentioned in passing, that claimant also claims certain creditor's interests allegedly owned by his father in connection with the concession. Having completely failed to prove such creditor's interests, it is not necessary to examine whether such rights, if any existed, are under the jurisdiction of this Commission.

(5) Shares of Stock in Ustipraca A.D. and a Debt Claim against It

Claimant further alleges that he inherited from his father 25% of the stock in "Ustipraca," a corporation in Belgrade, organized under the laws of Yugoslavia. The company allegedly owned a sawmill with equipment, a narrow gauge railway, transportation and other miscellaneous equipment. Claimant asserts that the company was nationalized or taken by the Government of Yugoslavia and makes a claim for the value of the shares of stock and for a debt claim against the company for a loan granted to the company or its predecessor before World War I.

The Government of Yugoslavia reports that Ustipraca A.D., organized in 1924 with a capital stock of 2,000,000 dinars, issued 2,000 shares of stock of 1,000 dinars par value each. It went into liquidation in 1934 and the entire capital stock of 2,000,000 dinars was written off to cover business losses. A new company under the same name was established in 1936 with the participation of French capital. Due to the effects of war, the major part of the files of the company was destroyed. It could not be established whether the claimant owned

any of the shares of stock of the new company, Ustipraca, organized in 1936, but neither claimant nor his father appears to have been registered as stockholders of this company. Efforts made by investigators of the Field Branch in Yugoslavia revealed that, in 1933, the assets of the old company were taken over by the company "Sipad," now also in liquidation. Mr. Ivan Jandovski, now with the Directory of Forestry at Sarajevo, Bosnia, stated in an interview with the Commission's investigators that he was in charge of liquidating the state enterprise "Sipad" and that he knows that in 1933 some German and Austrian industrialists and not claimant or his father were listed as stockholders of the "Ustipraca" A.D. He also stated that the sawmill and all installations of the former Ustipraca were destroyed in 1941 by Chetnik troops.

Claimant failed to sustain the burden of proof with respect to the ownership of 25% of the shares of stock of the "Ustipraca" A.D., and from the foregoing, it appears that the company was liquidated in 1933 or 1934, due to a total loss of its capital.

It is unnecessary to examine whether claimant's claim for a loan granted by his deceased father to the company or to its predecessor prior to World War I comes under the jurisdiction of this Commission. From the foregoing, it appears established that the company "Ustipraca," in which claimant's father allegedly owned shares of stock was liquidated and ceased to exist sometime in 1933 or 1934, and that no nationalization or other measures were applied by the Government of Yugoslavia with respect to the property of that corporation.

This part of the claim, therefore, must also be denied.

(6) <u>Shares of Stock in Hrvatski Dom</u>

Claimant claims 5 shares of stock in a cultural organization called "Hrvatski Dom" (Croatian House) in Starigrad, which shares he

allegedly inherited from his father. No evidence whatsoever has been filed to support the ownership of the shares in this organization. The Government of Yugoslavia reports that no nationalization or taking was applied to this institution, which is actually some kind of a public library in the town of Starigrad.

Due to the fact that claimant did not sustain the burden of proof with respect to the ownership of the shares in "Hrvatska Dom," and in view of the further fact that no interference with the property of this institution by the Government of Yugoslavia was ascertained, this part of the claim must also be denied.

(7) Sundry Claims for Deposits

Claimant alleges that he had the following deposits which were taken by the Government of Yugoslavia:

50 lire with the Municipal Electric Company in Zadar

25 lire with the Municipal Aqueduct Company in Zadar

4,000 gold crowns with the Adriatic Steamship Company in Starigrad

30,000 dinars bonds or cash on deposit with the Circuit Court at Starigrad

The Government of Yugoslavia reports that, due to war-time conditions and the change in the sovereignty over the city of Zadar in 1947, it could not ascertain whether claimant had any money on deposit with the aforesaid public utilities in Zadar. In any event, the amounts involved are so small that they represent only fractional amounts of a dollar in United States currency, and it would not be practicable to make any further efforts to ascertain the respective facts.

The Government of Yugoslavia was unable to establish that claimant had on deposit the amount of 4,000 Austrian gold crowns with the Adriatic Steamship Company of Starigrad. Apparently, this amount was

deposited with the steamship company before World War I. It is doubtful whether it was held as a deposit on the books of the company after World War I, but, in any event, claimant did not sustain the burden of proof as to the ownership of the said deposit, nor did he prove that such deposit was nationalized or taken by Yugoslavia.

The claimant seeks compensation for a deposit of government bonds or cash made with the Circuit Court of Starigrad. This deposit allegedly arose by reason of the taking by the Government of Yugoslavia in 1939, pursuant to the Agrarian Reform Law, of several parcels of land in which the claimant had an interest. The claimant did not allege that these bonds or cash were taken by the Government of Yugoslavia but vaguely asserted that he did not succeed in obtaining the bonds or cash due to difficulties in the mail service. No evidence has been furnished to show that he was the owner of such a deposit or that it was taken by that Government. By Decision No. 352-A, in the matter of the claim of Jovo Miljus, Docket No. Y-1561, the Commission held that compensation cannot be paid for dinar bonds under the Agreement of July 19, 1948 between the Governments of the United States and Yugoslavia.

AWARD

On the above evidence and grounds, this claim is allowed and an award is hereby made to Jurica (George) Bjankini, claimant, for that part of his claim described above under (1), in the amount of $35,171.82, with interest thereon at 6% per annum from May 7, 1945, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of $6,943.76.*

Dated at Washington, D. C.

OCT 29 1954

* 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.