

# MILLION FROM ALIEN ENEMY

## Share of Countess is Vested in Minister of Finance as Custodian

By an order made by Mr. Justice Sutherland yesterday at Osgoode Hall, upward of \$1,000,000, the share of the Countess Matuschka in the estate of Franklin Hiram Walker of Detroit was vested in the Minister of Finance as Custodian of Enemy Property.

Some years before the death of F. H. Walker, Ella, his only daughter, was married to Count Manfred von Matuschka, a citizen of Germany, where she was residing with him and was in a legal sense like him an alien enemy. In 1916 the Countess came to the United States from Germany. Fearful lest there would be a break between the United States and that country, she returned to Germany in February, 1917.

Before she left she and her mother, Mrs. Walker, executed an agreement whereby the Ontario assets of the estate were allocated as the share of Mrs. Walker.

"This allocation agreement," Mr. Justice Sutherland says, "assumes to segregate all the Canadian assets in the estate for the benefit of May Walker."

"If effect is given to the contention put forward by the National Trust Company," his Lordship continues, "the result is that Canada, a participant in the war at the time of the testator's death, has lost an opportunity to lay its hands upon upwards of one million dollars' worth of property of which an alien enemy is alleged to have been the beneficial owner at the time of the death of the testator; and the United States, which became a participant at a date considerably subsequent to his death, has acquired the right to impound twice as much of the estate as it would have had to do had they been combatants at that date."

### Mrs. Walker's Interest.

The judgment points out that the order will not interfere with the reasonable use and enjoyment by Mrs. Walker of her interest in the reserve of the estate in the Province of Ontario and her income therefrom. It suggests that some arrangement might be made between her and the Custodian to alleviate to some extent any anxiety or difficulty on that score.

It is provided by the judgment that nothing shall prejudice any action which Mrs. May Walker may bring within three months from the date of the order for a declaration that the scheduled assets under the consolidated orders in Council were not properly vested in the Custodian.

The order provides that the undivided one-half interest in the assets of the Walker estate now in the hands of the National Trust Company be vested in the hands of the Minister of Finance and Receiver-General of Canada as the Custodian appointed by the consolidated orders in Council.