

REPORTS OF INTERNATIONAL ARBITRAL AWARDS

RECUEIL DES SENTENCES ARBITRALES

Henry Groves and Joseph Groves (United States) v. Germany

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claim is founded on mere conjecture and is without competent evidence to support it.

No demand is made for the value of the personal effects lost with decedent.

The net assets of the estate aggregated \$140,521.86, which was distributed among the creditors on the basis of 81.32% of the amount of their claims.

The decedent was survived by his father, Henry W. Williamson, then 75 years of age, a sister, Ellen Williamson Hodges, a brother, Harry A. Williamson, then 50 and 35 years of age respectively, and a nephew, John Baseman Williamson, son of a deceased brother (Eugene L. Williamson). In 1901 the father, at the instance of the decedent, retired from the office of Clerk of the Circuit Court of Allegany County, Maryland, and has since that time engaged in no employment, the decedent making regular contributions amounting to about \$700 per annum, sufficient to meet the father's modest needs.

The decedent had been unusually devoted to his sister, Ellen Williamson Hodges, whose husband had long been ill and died in 1916. The decedent not only contributed from time to time substantial amounts to his sister's maintenance but promised her that in the event of her husband's death he would take care of and support her. The care of her aged father now rests principally on Mrs. Hodges, who in order to support herself and father is employed in a Government department at Washington. There is no evidence that the other claimants were to any extent dependent upon the decedent or that he made any contributions to them.

It is apparent from the records in these cases and another case before the Commission that the pecuniary demands upon the decedent were quite heavy, and according to the provisions of his will more than one-half of his estate (had it been solvent) was bequeathed outside of the members of his family. While decedent had he lived would doubtless have continued making modest contributions to his father and sister, it is probable that such contributions would not have been very substantial in amount.

Applying the rules announced in the *Lusitania* Opinion and in other decisions of this Commission to the facts in these cases as disclosed by the records, the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government of Germany is obligated to pay to the Government of the United States on behalf of (1) Henry W. Williamson the sum of five thousand dollars (\$5,000.00) with interest thereon at the rate of five per cent per annum from November 1, 1923, and (2) Ellen Williamson Hodges the sum of ten thousand dollars (\$10,000.00) with interest thereon at the rate of five per cent per annum from November 1, 1923; and further that the Government of Germany is not obligated to pay to the Government of the United States any amount on behalf of the other claimants herein.

Done at Washington February 21, 1924.

Edwin B. PARKER
Umpire

HENRY GROVES AND JOSEPH GROVES (UNITED STATES)
v. GERMANY

(February 21, 1924, pp. 367-369.)

DAMAGES IN DEATH CASES: ACTUAL FINANCIAL CONTRIBUTIONS, DEPENDENTS.

Claim for losses suffered by brother of *Lusitania* victim. Application of rules

announced in *Lusitania* Opinion. No damages allowed: first claimant was in no sense dependent upon decedent and had no assurance that gifts which decedent used to make to him would continue; second claimant did not actually assert claim.

PARKER, *Umpire*, rendered the decision of the Commission.

This case is before the Umpire for decision on a certificate of the American Commissioner and the German Commissioner ^a certifying their disagreement. A brief statement of the facts as disclosed by the record follows:

The United States asserts this claim on behalf of Henry Groves and Joseph Groves for losses sustained by them resulting from the death of their brother, George Groves, a passenger lost on the *Lusitania*. It is, however, clear from the record that no claim is asserted by Joseph Groves. With respect to the claim of Henry Groves the facts are:

Three brothers, George, Henry, and Joseph Groves, born in Lincolnshire, England, emigrated to the United States many years ago and located in Illinois, operating contiguous farms. All of them became naturalized citizens of the United States. The wife of George died in 1902, after which he spent much of his time with his brother Henry on the latter's farm, although he visited the home of his brother Joseph "and took his meals there a considerable part of the time" and also spent some time in England, just how much is not disclosed by the record. The statement is made by both Joseph and Henry Groves that during the last five years prior to the death of their brother George he presented Henry Groves from time to time, as donations or gifts, sums of money averaging about \$300 per annum, that Henry made no charge against the decedent for room or board during the time the latter lived with him, and that these donations or gifts were not in the nature of payments therefor. Neither Henry nor Joseph Groves were dependent upon their brother George. The latter left a will executed in England March 16, 1915, reciting that he was then a resident of Gainsborough in the County of Lincoln, England. It appears that he was then residing with his widowed sister, Sarah Parkinson. He bequeathed his entire estate to this sister and her children save small bequests made to two other brothers, James and Thomas, all residents of England and citizens of Great Britain. His brothers Henry and Joseph are not mentioned in the will, which was probated in England, his entire estate passing thereunder, his sister, Mrs. Parkinson, and her three children receiving about \$25,000, his brother James about \$2,500, and his brother Thomas about \$1,250.

It is apparent from the record that George Groves, then more than 68 years of age, a widower without children, was residing in England where he was born and where most of his family lived, making his home with his sister, to whom and her children he was devoted. There is no evidence in the record that he left any property in the United States or intended to return here. His brother Henry was in no sense dependent upon him and had no assurance that the gifts estimated at \$300 per annum would continue. On the contrary, the disposition made of his estate by the decedent in his will executed in England less than two months prior to his death negatives the idea that he intended to make any provision for or contributions to his brother Henry.

Applying the rules announced in the *Lusitania* Opinion to the facts as disclosed by the record, the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government

^a Dated February 14, 1924.

of Germany is not obligated to make any payment to the Government of the United States on behalf of either Henry Groves or Joseph Groves.

Done at Washington February 21, 1924.

Edwin B. PARKER
Umpire

HEPZIBAH VERNON BUTLER (UNITED STATES)
v. GERMANY

(February 21, 1924, pp. 407-408.)

DAMAGES IN DEATH CASES: ANTICIPATED FINANCIAL CONTRIBUTIONS; PERSONAL PROPERTY: CLAIM TO BE PRESENTED BY EXECUTOR.—EVIDENCE: WITNESSES. Claim for loss suffered by mother of *Lusitania* victim. Application of rules announced in *Lusitania* Opinion, see p. 32 *supra*. Evidence concerning decedent's earning capacity: testimony of witnesses. *Held* that, since will of decedent was probated, claim for value of personal property lost should have been presented, if at all, on behalf of executor. Damages allowed for anticipated contributions to maintenance of claimant.

PARKER, *Umpire*, rendered the decision of the Commission.

This case is before the Umpire for decision on a certificate of the American Commissioner and the German Commissioner^a certifying their disagreement. A brief statement of the facts as disclosed by the record follows:

George Lay Pearce Butler, an American national, 45 years of age, was a passenger on and went down with the *Lusitania* on May 7, 1915. He was survived by a widow, Inez Jolivet Butler—a violinist—who committed suicide in New York July 22, 1915; a father, who died July 21, 1920, at the age of 81 years; and a mother (this claimant), who was then 73 years of age; and also by two brothers and two married sisters, all of whom were mature and had domestic establishments of their own. A claim is being asserted here only on behalf of the surviving mother, Hepzibah Vernon Butler.

The decedent possessed marked versatility. He embarked in business as a banker; then became a concert singer, touring extensively; then an importer's agent and promoter; and during the last four months of his life was representing the Russian Government in the placing of contracts for munitions. At one place in the record the statement is made that he was en route to Europe to place a munitions contract for the Russian Government when he met his death; elsewhere in the record it is stated that he was en route to England for the purpose of bringing his wife to America. The testimony concerning his earning capacity is vague. Several witnesses estimated that during the last five years of his life his average annual income was from \$10,000 to \$20,000. There are also some more or less speculative estimates as to what he was earning and would probably have earned from his activities in placing munitions contracts.

It is stated in the record that the will of decedent was probated in New York September 6, 1916. His widow was then dead; his father and mother were then living. The record does not disclose the terms of the will or the value of his estate. It does appear from the record that the widow collected \$20,000 insurance on the life of decedent. The statement is also made that the mother

^a Dated February 14, 1924.