

# **REPORTS OF INTERNATIONAL ARBITRAL AWARDS**

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## **RECUEIL DES SENTENCES ARBITRALES**

**Alexander Sprunt & Son (United States) v. Germany**

7 March 1929

VOLUME VIII pp. 66-67



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Joseph F. O'Brien . . . . .	\$1,485.13
David Baird Company . . . . .	1,485.13
Clara Stetson Meigs, Executrix of the Estate of Mary L. Stetson . . . . .	8,910.79
Clara Stetson Meigs . . . . .	2,970.26
Mary J. Winsmore, Executrix of the Estate of Thomas Winsmore . . . . .	5,940.52

Done at Washington June 14, 1928.

Edwin B. PARKER

*Umpire*

[*Editorial note.* — The effect of the foregoing corrected and revised decree was (1) to enter awards in favor of the holders of the remaining  $\frac{12}{64}$  interest in the schooner, i. e., the three parties last named in the foregoing decree, (2) to apportion to William J. Quillin instead of among the part-owners the value of the schooner's stores lost with her, and (3) to correct certain inaccuracies in the names of the part-owners discovered after the entry of the original decree, which in all other respects remained unchanged.]

#### ALEXANDER SPRUNT & SON (UNITED STATES) v. GERMANY

(*March 7, 1929, p. 927.*)

WAR: DIRECT IMPACT OF EXCEPTIONAL WAR MEASURES ON PROPERTY, RIGHTS, INTERESTS. Claim for loss through prevention of German bank, by exceptional war measures, from paying British bank, with which claimants were in contractual relation. *Held* that claim not within terms of Treaty of Berlin: war measures did not operate *directly* on claimants' property, rights, or interests.

BY THE COMMISSION: —

The title to the cotton held in Germany and involved in this claim was, under the German law which controlled the transaction, in the Deutsche Nationalbank as agent for the Anglo-Austrian Bank, London Branch. When the cotton was sold its cash proceeds were held by the Deutsche Nationalbank as agent for the Anglo-Austrian Bank, London Branch. The exceptional war measures complained of by claimants prevented the Deutsche Nationalbank from accounting to and making payment to its principal, the London Branch of the Anglo-Austrian Bank. These war measures were not directed against American nationals nor did they operate directly upon the property of, or the debts owing by German nationals to, American nationals. The losses complained of by claimants resulted not from any exceptional war measures operating directly upon their property, rights, or interests within the meaning of the Treaty, but only indirectly and remotely through their contractual relations with the London Branch of the Anglo-Austrian Bank. There never was a time during the war when the claimants were entitled to demand and receive the cotton in question or the proceeds thereof nor when the Deutsche Nationalbank was indebted to the claimants for the amount of such proceeds.

The loss sustained by claimants is not one falling within the terms of the Treaty of Berlin for which Germany is financially obligated.

The claim is dismissed.

Done at Washington March 7, 1929.

Edwin B. PARKER

*Umpire*

Chandler P. ANDERSON

*American Commissioner*

W. KIESSELBACH

*German Commissioner*

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PHILADELPHIA-GIRARD NATIONAL BANK  
(UNITED STATES) *v.* GERMANY

(April 3, 1929, pp. 936-939.)

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DEBT: RELATIONSHIP OF CREDITOR AND DEBTOR. — NEGLIGENCE, DEFAULT. —

WAR: EXCEPTIONAL WAR MEASURES. Establishment by German bank, in its own name, but for account and at risk of claimant, who made remittances to this end, of rouble credits in Russian banks, against which claimant was entitled to issue drafts. Failure of claimant shortly before outbreak of war, to heed German bank's suggestion for instructions to sell out credits, followed, immediately at outbreak of war, by Russian prohibition of transfer of credits to claimant. Claim for losses resulting from termination and frustration of arrangement between two banks. *Held* that no relationship of creditor and debtor existed between claimant and German bank: latter merely obliged to establish credits, which obligation is fulfilled; and that loss to claimant not due to German bank's negligence or default, nor to action by Germany; and that no exceptional war measures within meaning of Treaty of Berlin involved: claimant American national, United States neutral at time of transactions.

OPINION BY THE COMMISSION: —

The transactions between the Philadelphia-Girard National Bank <sup>1</sup> (hereinbelow called the Philabank) and the Disconto-Gesellschaft (hereinbelow called the Disconto), out of which this claim arises, were briefly as follows:

For several months prior to the outbreak of the World War, the Philabank transmitted from time to time to the Disconto funds which the Disconto used at the request of the Philabank to establish ruble credits in its own name but for the account of the Philabank in unnamed banks in Russia. The Philabank was entitled to issue drafts against these credits and did so in the course of its business, which drafts were always honored up to the outbreak of the War between Russia and Germany. Immediately before that date the Disconto endeavored to arrange for a transfer to the Philabank of the entire remaining ruble credit in Russia to which it was entitled under these transactions. The then existing ruble credit of the Disconto in Russia was ample for this purpose, but the attempted transfer was prevented because the Russian authorities,

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<sup>1</sup> Claimant bank's name having been changed, the award entered on April 3, 1929, was on behalf of "The Philadelphia National Bank".