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**John Case—Decision No. 11**

9 November 1953

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to the British Government within which to specify the amount of the compensation claimed and to produce proof thereof, unless a direct agreement is reached with the Italian Government on the amount;

(3) This decision is final and binding.

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JOHN CASE—DECISION No. 11  
OF 9 NOVEMBER 1953

Compensation under Article 78 of the Peace Treaty—War damages—Damaged property jointly owned by claimant and another—Measure of damages.

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Indemnisation au titre de l'article 78 du Traité de Paix — Dommages de guerre — Biens endommagés dont le réclamant est co-proprétaire — Détermination du montant de l'indemnité due au réclamant.

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The Anglo-Italian Conciliation Commission, established in accordance with Article 83 of the Treaty of Peace of 10 February 1947 between the Allied and Associated Powers and Italy, composed of Colonel Guy G. Hannaford of the Embassy of the United Kingdom of Great Britain at Rome, Representative of the Government of the United Kingdom, Avvocato Antonio Sorrentino, President of the Honorary Section of the Council of State at Rome, Representative of the Italian Government, and Doctor Plinio Bolla, former President of the Swiss Federal Tribunal at Morcote (Ticino, Switzerland), Third Member appointed by the common accord of the British and Italian Governments;

Having met in Rome on Monday, 9 November 1953;

In respect of a claim for damages presented by the British Government represented by its Agent Mr. M. C. Adams in Rome, against the Italian Government represented by its Agent Avv. Francesco Agrò of the Avvocatura of the State in Rome, on behalf of Mrs. Mary A. E. John.

HAVING ESTABLISHED AS MATTERS OF FACT:

That Mrs. A. E. John, a British subject, and her daughter Doris J., who is married to Renato Marzano, an Italian citizen, had resided in Rome for many years before the war.

Just before the war the two ladies occupied a rented residential apartment consisting of five rooms and usual offices, in a house situated at No. 58 Via Panama. The apartment was luxuriously furnished. The furniture and objects d'art belonged as to 25/46 to Mrs. A. E. John and as to 21/46 to Mrs. Doris J. Marzano (*née* John).

In 1938, Mrs. John and Mrs. John Marzano approached an art valuer, Signor Mario Barsanti, and asked him how much it would have been possible to obtain as the result of a sale at auction of the contents of their apartment.

After a summary estimate Signor Barsanti arrived at the total approximate figure of L. 900,000.

Mrs. John and Mrs. John Marzano however, gave up the idea of the sale and, before their departure for Agra (India), the entry of Italy into the war being imminent, prepared to store their furniture and effects with Mr. Arthur Bolliger, a forwarding agent in Rome.

Mr. Bolliger, having made an inventory of it, placed it in a warehouse at No. 12, Via Porto Fluviale, which was completely destroyed by bombardment in March 1944. The few possessions of Mrs. John and Mrs. John Marzano which were saved, were listed by Bolliger and placed in another warehouse.

These remaining items were valued in March 1950, on the order of the owner, by Professor Giorgio Ansoldi, who, availing himself of Barsanti's estimate and Bolliger's inventory, endeavoured to establish the value that the goods left in Italy by the two ladies would have had at that time, had they not been damaged and partially destroyed by the effect of the bombardment.

At the time of depositing the goods with Bolliger, the owners asked the forwarding agent to insure them against fire for L. 200,000.

Under the Treaty of Peace Mrs. John claims damages from the Italian Government amounting to two thirds of the sum of L. 25,013,760, plus the sum of L. 385,210 for expenses incurred in the preparation of the claim.

The Italian Government, basing itself above all on the figure quoted in the Insurance Policy offers an indemnity of L. 3,311,750 in settlement.

The Conciliation Commission ordered an inquiry and heard Messrs. Barsanti, Bolliger and Ansoldi as witnesses.

#### CONSIDERATIONS IN LAW:

The Conciliation Commission, having seen the results of the inquiry, particularly the indications derived from the Insurance Policy and from the estimates of Barsanti and Ansoldi, as completed orally and explained at the hearing by their authors, availing itself of the wide powers of fair appraisal which are conferred on it, decides on the figure of L. 8,500,000 as being two thirds of the sum necessary to buy equivalent goods or compensate the loss suffered, in accordance with Article 78, paragraph 4 (*a*), of the Peace Treaty.

In arriving at this figure the Conciliation Commission, having taken into account both the fact that 21/46 of the movable property deposited at Bolliger's belonged to Mrs. John Marzano, and are therefore outside the scope of the present dispute, and also that a part of the claimant's property—although small and in bad condition—was able to be recuperated, has applied the coefficient of revaluation of 47, which was agreed to by the Italian Agent.

To the sum of L. 8,500,000 the Conciliation Commission adds L. 200,000 for the item to which Article 78, paragraph 5, of the Peace Treaty refers (Reasonable expenses incurred in Italy during the process of examination of the claim, including the establishment of the amount of the loss and damage).

#### DECIDES:

1. The Italian Government will pay within two months from the notification of this Decision, the sum of L. 8,700,000 (eight million, seven hundred thousand) to Mrs. Mary A. E. John, in application of Article 78, paragraphs 4 (*a*) and 5, of the Treaty of Peace.

2. The sum will be paid free of any levy, tax or other form of fiscal imposition.
3. The present Decision is definitive and binding.

Drawn up at Rome the 9th November 1953.

*The Third Member*

*The Representative of H.B.M.  
Government before the Anglo-Italian  
Conciliation Commission*

*The Representative of the Italian  
Government before the Anglo-Italian  
Conciliation Commission*

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CURRIE CASE—DECISION No. 21  
OF 13 MARCH 1954

Claim for compensation under Article 78 of Peace Treaty—Damages sustained by property in Italy belonging to United Nations nationals—Damages resulting from aerial bombardments—Damages due to discriminatory measures—Whether measures taken against property discriminatory—Sequestration—Negligence of sequestrator—State responsibility for—Responsibility for effect of delay in repairing damaged property—Interpretation of treaties—Rules of—Interpretation by reference to decision of another Conciliation Commission—Meaning of “Injury or damage suffered as a result of the war”—Measure of damages.

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Demande d'indemnisation au titre de l'article 78 du Traité de Paix — Dommages subis par des biens en Italie appartenant à des ressortissants d'une Nation Unie — Dommages résultant de bombardements aériens — Dommages résultant de mesures discriminatoires — Question de savoir si les mesures prises à l'encontre des biens avaient un caractère discriminatoire — Séquestre — Responsabilité de l'Etat — pour faute de l'administrateur séquestre — pour conséquences du défaut de réparation des biens endommagés — Interprétation des traités — Règles d'interprétation — Interprétation par référence à une décision d'une autre Commission de Conciliation — Signification de l'expression « atteinte ou dommage subi du fait de la guerre » — Détermination du montant de l'indemnité.

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Given on 13 March 1954 at Morcote (Switzerland) by the Anglo-Italian Conciliation Commission, instituted in accordance with Article 83 of the Treaty of Peace of 10 February 1947 between the Allied and Associated Powers on the one hand, and Italy on the other, and composed of Dott. Plinio Bolla, former President of the Swiss Federal Court, at Morcote (Ticino, Switzerland), third member designated by mutual agreement by the Government of the United Kingdom of Great Britain and Northern Ireland and by the Government of the Italian Republic, Colonel Guy G. Hannaford of the British Embassy in