

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
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**Charles Ambrose Plamondon, Jr., Sole Surviving Administrator of the Estate of
Charles A. Plamondon, Deceased, and Individually and on behalf of Harold
Mackin Plamondon and Others (United States) v. Germany; and two other cases**

2 October 1924

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thereon at the rate of five per cent per annum from May 7, 1915; and further decrees that the Government of Germany is not obligated to pay to the Government of the United States any amount on behalf of the claimants Ralph Hubbard and Sanford Hubbard.

Done at Washington October 2, 1924.

Edwin B. PARKER
Umpire

CHARLES AMBROSE PLAMONDON, JR., SOLE SURVIVING
ADMINISTRATOR OF THE ESTATE OF CHARLES A. PLAMONDON,
DECEASED, AND INDIVIDUALLY AND ON BEHALF OF HAROLD
MACKIN PLAMONDON AND OTHERS (UNITED STATES) *v.*
GERMANY; AND TWO OTHER CASES

(October 2, 1924, pp. 457-461.)

DAMAGES IN DEATH CASES: ACTUAL CONTRIBUTIONS; EDUCATION; UNINTENTIONAL TERMINATION OF CONTRACT BETWEEN CLAIMANT AND THIRD PARTY; EXPENSES. Claims for alleged losses suffered by children of *Lusitania* victims and by company of which one victim was vice-president, secretary and treasurer. Application of rules announced in *Lusitania* Opinion, see p. 32 *supra*, and in other decisions. *Held* that, under Treaty of Berlin, Germany not obligated to pay losses suffered by claimant company flowing directly from termination of its contract, if any, with other company on vice-president's death: reference made to Hickson case, p. 266 *supra*. *Held* also that in death cases Commission empowered to make awards for loss of actual or probable contributions, which were fruits of personal efforts of decedent, not for loss of such contributions derived as income from decedent's estate, which on his death vested in claimants and yields to them same income as it yielded to decedent during life (cf. Gladys Bilicke case, p. 263 *supra*). Damages allowed on behalf of (1) children for lost pecuniary contributions and education, (2) administrator of parents' estates for (a) expense, (b) lost property.

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

These three cases, which have been considered and will be disposed of together, are before the Umpire for decision on a certificate of the two National Commissioners^a certifying their disagreement.

It appears from the records that Charles A. Plamondon and his wife, Mary Mackin Plamondon, both then 57 years of age, were passengers on and were lost with the *Lusitania*. They left surviving them two sons and three daughters, Charles A., Jr., then 25, Harold Mackin, then 23, Marie, then 34, Charlotte Plamondon Ripley, then 32, and Blanche Plamondon Smith, then 29 years of age. The daughter Marie has never married. The second daughter married Allen B. Ripley in April, 1910, and the third daughter married John Henry Smith in January, 1909. Both of the decedents, all of their children, and the husbands of the two married daughters were born and have ever remained American nationals.

The father of these claimants was strong physically, active in business as well as in civic affairs, and possessed a pleasing personality. He was the active

^a Dated September 28, 1924.

head of two manufacturing corporations: one founded by his father and controlled by members of his family, which was fairly successful, the other founded and owned principally by him and his brothers. The last named company, with a very small capital, had yielded large returns, but several years prior to Plamondon's death its earnings substantially declined. He received salaries aggregating \$17,200 per annum, and the stock owned by him in these two companies yielded him dividends bringing his average income from these two sources up to approximately \$30,000 per annum. In addition he had an income from an interest in his mother's estate of approximately \$20,000 per annum. On his death he left an estate of a value somewhat in excess of \$200,000, about one-half of which was an interest in real property inherited from his mother. It is apparent that the major part of his income, as well as his wife's individual income of between two and three thousand dollars from her separate property, was absorbed by the decedents and their five children, claimants herein, in living expenses.

To his spinster daughter, Marie, the decedent contributed about \$5,000 per annum and to each of his sons, who were then at college, about \$3,600 per annum. There is a statement in the record to the effect that the decedent made contributions and gifts to his two married daughters, but no attempt is made to fix the amount of such contributions or the value of such gifts. The inferences to be drawn from the records are that the husbands of these married daughters were amply able to support and did support them. There is no statement in the records from either of these married daughters or their respective husbands.

The mother of these claimants was physically strong and interested in social and civic activities. Her separate estate, from which she derived an income, was valued on her death at more than \$80,000.

The estate which the five children of the deceased, each taking a one-fifth interest, inherited from both of their parents aggregated in value approximately \$300,000, or some \$60,000 to each of them.

The money and personal effects lost with Mr. Plamondon were of the value of \$1,430.48, while the personal effects of Mrs. Plamondon which were lost were of the value of \$3,604.25.

The administrator of Mr. Plamondon's estate asserts a claim of \$758.62, the cost of recovering the two bodies, and \$53.95, the cost of their transportation to Chicago. These disbursements were made on or about August 6, 1915.

At the time of the loss of both of their parents the claimants Charles and Harold Plamondon, then 25 and 23 years of age respectively, were at college. They were deprived of the care, supervision, direction, and assistance of their parents in completing their education and launching on their respective careers.

The third case, Docket No. 477, is put forward by the United States on behalf of Charles A. Plamondon, Jr., representing all of the stockholders of The Saladin Pneumatic Malting Construction Company, which has been dissolved. The claim is made that the Saladin Co. had entered into a contract with Arthur Guinness Son and Company, Limited, of Dublin, Ireland, which would have proven very remunerative to it; that Charles A. Plamondon, decedent, was vice-president, secretary, and treasurer of that company and its active manager; that at the time of his death he was en route to Dublin with plans for extensive installations to be made for the Guinness Co.; and that on account of his death the Guinness Co. declined to perform the contract, to the great damage of the Saladin Co. The claim as presented is vague and unsatisfactory. In the record is found what purports to be a copy of a contract, signed by the Saladin Co. acting by its president and its vice-president and

secretary. It is *not* signed by the Guinness Co. There is nothing in the record to prove that the Guinness Co. had ever bound itself by contract to the Saladin Co. There is nothing in the draft of contract to indicate that it was contemplated that Charles A. Plamondon should be a party to it in his individual capacity or that it was contemplated that the Saladin Co. should contract that Charles A. Plamondon would act for it in the execution of the contract. The record indicates that the Guinness Co. is a responsible concern. If it has wrongfully breached a binding contract to the damage of the Saladin Co., the latter has its remedy against it. Although requested by the American Agent so to do, the claimant has failed to produce any evidence of the reasons assigned by the Guinness Co. for refusing to enter into the contract or to go forward with the execution of the contract already entered into, as the case may be. The claimant has wholly failed to establish the loss claimed. But even if it were clear that the claimant had suffered a loss flowing directly from the termination of the contract, if any ever existed between the Saladin Co. and the Guinness Co., and that such termination was induced by the loss of the life of Charles A. Plamondon on the *Lusitania*, still, under the terms of the Treaty of Berlin, Germany would not be obligated to pay such loss. The reasons for so holding are set forth at length in the opinion of the Umpire in deciding the Life-Insurance Claims (Decisions and Opinions, pages 121-140) and in the opinion of the Umpire in deciding Docket Nos. 417 and 418,^b put forward on behalf of Richard J. Hickson, etc., and these reasons need not be restated.

The measure of the awards which this Commission is empowered to make in the class of cases to which these claims belong is not the value of the lives lost but the pecuniary losses suffered *by claimants* resulting from the deaths. To the extent that contributions by deceased made during their lives and those which they would probably have made to claimants but for Germany's act causing their deaths were the direct fruits of the personal efforts of the deceased whose producing powers were destroyed by their deaths, the claimants have suffered pecuniary damages which Germany is obligated to pay. But to the extent that such actual or probable contributions were derived as income from the estates of deceased, which vested in the claimants on the deaths of deceased and yielded to the claimants the same income as they yielded to the deceased during their lives, the claimants have suffered no pecuniary damages (*Pym v. Great Northern Railway Co.*, 4 Best & Smith's Reports 396; *San Antonio & Aransas Pass Railway Co. v. Long*, 87 Texas Supreme Court Reports).

Applying the rules announced in the *Lusitania* Opinion and in the other decisions of this Commission to the facts as disclosed by the records herein, 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) Marie Plamondon the sum of twenty thousand dollars (\$20,000.00), (2) Charles Ambrose Plamondon, Jr., the sum of fifteen thousand dollars (\$15,000.00), (3) Harold Mackin Plamondon the sum of fifteen thousand dollars (\$15,000.00), (4) Charlotte Plamondon Ripley the sum of ten thousand dollars (\$10,000.00), and (5) Blanche Plamondon Smith the sum of ten thousand dollars (\$10,000.00), with interest on each of said sums at the rate of five per cent per annum from November 1, 1923, and (6) Charles Ambrose Plamondon, Jr., Administrator of the Estate of Charles A. Plamondon, deceased, the sum of eight hundred twelve dollars fifty-seven cents (\$812.57) with interest thereon at the rate of five per cent per annum from August 6, 1915, (7) Charles A. Plamondon, Jr..

^b Ante, pages 439-444. (*Note by the Secretariat*, this volume, pp. 266-269 *supra*.)

Administrator of the Estate of Charles A. Plamondon, deceased, the sum of one thousand four hundred thirty dollars forty-eight cents (\$1,430.48) with interest thereon at the rate of five per cent per annum from May 7, 1915, and (8) Charles A. Plamondon, Jr., Administrator of the Estate of Mary Mackin Plamondon, deceased, the sum of three thousand six hundred four dollars twenty-five cents (\$3,604.25) with interest thereon at the rate of five per cent per annum from May 7, 1915; and further decrees that the Government of Germany is not obligated to pay to the Government of the United States any amount on behalf of the Saladin Pneumatic Malting Construction Company.

Done at Washington October 2, 1924.

Edwin B. PARKER
Umpire

JAMES F. BISHOP, ADMINISTRATOR OF THE ESTATE OF
WILLIAM MOUNSEY, DECEASED, AND OTHERS (UNITED STATES)
v. GERMANY

(*March 5, 1925, pp. 577-580.*)

NATIONALITY OF CLAIMS: PRIMARY, SECONDARY EVIDENCE.—NATURALIZATION: EFFECT OF DECLARATION OF INTENTION TO BECOME AMERICAN CITIZEN.—DAMAGES IN DEATH CASES: ACTUAL FINANCIAL CONTRIBUTIONS. Claim for alleged losses suffered by children of *Lusitania* victims. Application of rules announced in *Lusitania* Opinion and Administrative Decisions Nos. V and VI, see pp. 32, 119, and 155 *supra*. *Held* that decedent, who in 1886 made formal declaration of intention to become American citizen, nevertheless was British subject at time of death: no primary evidence of naturalization as American citizen (record of competent court or authenticated copy thereof) has been brought, only secondary, inconclusive, evidence (long residence in United States, exercising of right of vote and other privileges and rights of citizenship); and that, therefore, no claim for value of personal property lost can be asserted. Damages allowed on behalf of one (American) child for lost pecuniary contributions.

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

This case is before the Umpire for decision on a certificate of the two National Commissioners^a certifying their disagreement.

William Mounsey, 58 years of age, a second-cabin passenger, was lost with the *Lusitania*. He was born a British subject. It is contended that, through naturalization, he became a citizen of the United States. From the record it appears that he migrated to America in May, 1883, and that on January 23, 1886, he took the first step toward naturalization by formally declaring, in the manner prescribed by the statutes of the United States, "that it is bona fide his intention to reside in and become a citizen of the United States; and to renounce forever all allegiance and fidelity to every foreign" sovereignty. But this declaration of intention was far from constituting him a citizen of the United States, notwithstanding he resided therein continuously for a subsequent period of 29 years and continued to claim citizenship and to vote and to exercise other rights and privileges of citizenship. Such claim by him and the exercise of such privileges coupled with the declaration of intention to

^a Dated February 11, 1925.