REPARATIONS

1930-31

INTERIM REPORT

ERROL M. McDOUGALL
Commissioner

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OTTAWA
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1931

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P.C. 2100

PRIVY COUNCIL, CANADA

CERTIFIED *to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 6th September, 1930.*

The Committee of the Privy Council have had before them a Report, dated 3rd September, 1930, from the Secretary of State, submitting that, by Order in Council and Commission dated the 13th of March, 1923, as amended by Order in Council and Commission dated the 21st May, 1923, the Honourable William Pugsley was appointed a Commissioner to investigate and report upon Illegal Warfare Claims for the purpose of determining whether they fell within the first Annex to Section 1 of Part VIII of the Treaty of Peace with Germany, and the fair amount of such claims;

That in pursuance of such authority the Honourable William Pugsley held inquiries with respect to such claims up to the date of his death, the 3rd of March, 1925;

That, by Order in Council and Commission dated the 19th of June, 1925, James Friel, Esquire, of Moncton, N.B., One of His Majesty's Counsel learned in the law, was appointed to carry on the investigations made by the late Commissioner and to continue and complete the same;

That Mr. Friel made his Report, dated the 14th December, 1927, but that a large number of claims is still outstanding, not having been heard by either of the aforesaid Commissioners, or having been filed after the date of the aforesaid Report, and that it is advisable that such cases should be considered and reported upon.

The Committee, on the recommendation of the Secretary of State, advise that a Commission do issue under Part I of the Inquiries Act, Chapter 99 of the Revised Statutes of Canada, 1927, appointing Errol Malcolm McDougall, Esquire, of the City of Montreal, Province of Quebec, one of His Majesty's Counsel learned in the law, Commissioner for the purposes aforesaid.

(Sgd.) E. J. LEMAIRE,
Clerk of the Privy Council.

COMMISSION APPOINTING ERROL MALCOLM McDOUGALL, K.C.

Dated September 6, 1930.

WILLINGDON

CANADA

GEORGE THE FIFTH, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.*

To all to whom these Presents shall come or whom the same may in anywise concern,

GREETING:

Whereas in and by an order of Our Governor General in Council bearing date the sixth day of September in the year of Our Lord one thousand nine hundred and thirty (copy of which is hereto annexed) made pursuant to the Inquiries Act, Chapter 99 Revised Statutes 1927 provision has been made for an investigation by Our Commissioner therein and hereinafter named, in respect of certain illegal warfare claims for the purpose of determining whether they fall within the First Annex to Section I or Part VIII of the Treaty of Peace with Germany and the fair amount of such claims as upon reference to the said Order in Council will more fully and at large appear.

Now know ye, that by and with the advice of Our Privy Council for Canada, We do by these Presents nominate, constitute and appoint ERROL MALCOLM McDOUGALL of the City of Montreal in the Province of Quebec, one of Our Counsel learned in the law, to be Our Commissioner to conduct such inquiry. To have, hold, exercise and enjoy the said office, place and trust unto the said Errol Malcolm McDougall, together with the rights, powers, privileges and emoluments unto the said office, place and trust, of right and by law appertaining during pleasure.

AND We do hereby, under the authority of the Revised Statutes respecting Inquiries concerning public matters, confer upon Our said Commissioner, the power of summoning before him any witness and of requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as Our said Commissioner, shall deem requisite to the full investigation of the matters into which he is hereby appointed to examine.

And We do hereby require and direct Our said Commissioner to report to Our Secretary of State of Canada the result of his investigation together with the evidence taken before him and any opinion he may see fit to express thereon.

In testimony whereof, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed,— Witness, Our Right Trusty and Well beloved Cousin, Freeman Viscount Willingdon,

Knight Grand Commander of Our Most Exalted Order of the Star of India, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Grand Commander of Our Most Eminent Order of the Indian Empire, Knight Grand Cross of Our Most Excellent Order of the British Empire, Governor General and Commander-in-Chief of Our Dominion of Canada.

At Our Government House in Our City of Ottawa, this sixth day of September, in the year of Our Lord one thousand nine hundred and thirty and in the twenty-first year of Our Reign.

By Command,

(Sgd.) THOMAS MULVEY,
Under Secretary of State.

(Sgd.) W. STUART EDWARDS,
Deputy Minister of Justice,
Canada.

DEPARTMENT OF THE SECRETARY OF STATE

REPARATIONS, 1930-1931

INTERIM REPORT

To His Excellency,

The Administrator of the Government in Council.

MAY IT PLEASE YOUR EXCELLENCY:

Under and in virtue of Royal Commission issued to me dated September 6, 1930, directing that I hear and make report in respect of claims for reparations not heard by the previous commissioners, or which have been filed since the date of the earlier report, I now have the honour to submit the following interim report:—

At the time of my appointment there were outstanding in the hands of the department, some 150 claims, 62 whereof had not been heard by my predecessors, and the remainder filed after the completion of the report of Mr. James Friel, K.C., on December 14, 1927.

Following the publication in the press of notices calling upon all persons with claims to file same, further claims were submitted, as of January 15, 1931, closing date for filing, to a total number of 579, making in all 729 cases to be dealt with.

All claimants were notified of the time and place at which the Commission would conduct sittings, and, up to the present time, sessions have been held at Moncton, N.B.; Halifax, Bridgewater, Shelburne and Yarmouth, N.S.; Boston, Mass. (2 sittings); Montreal and Quebec, Que.; Ottawa, Belleville, Toronto (2 sittings), St. Catharines and Windsor, Ont.; Winnipeg, Man. (2 sittings); Regina, Sask.; Calgary and Edmonton, Alta.; Vancouver (2 sittings), and Victoria, B.C. In explanation of the sittings of the commission at Boston, it was found that a very great number of Canadians there resident would be unable to meet the Commission in Nova Scotia, many of them being actually away on fishing vessels. It was therefore considered proper that the commission should go to the most convenient centre where these claimants could be heard.

Accompanying the present report are recommendations in 272 cases, comprising practically all the civilian claims submitted in which the records have been completed and the cases presented. Further time for consideration has been required in a few cases, which are not included in the present report. In dealing with the cases now under report it seemed advisable to divide them into groups or categories which could be readily followed and referred to. Such classification is as follows:—

Class "A".—Losses arising out of the destruction of Fishing Schooners and Sailing Vessels,

Class "B".—Losses arising out of the destruction of Merchant Shipping,

Class "C".—Losses to Civilians, arising out of the destruction of the SS. "Lusitania", SS. "Hesperian", and other steamers.

Class "D".—Claims for damage caused by Air Raids,

Class "E".—Losses arising out of the Halifax Explosion, Collision, Fishermen *warned off* the fishing banks, and the destruction of nets and fishing gear by mine sweeper.

Class "F".—Miscellaneous Losses comprising claims for civilian internment, business losses, etc., munition explosions, goods lost in enemy or occupied territory, and claim not substantiated.

At the beginning of each category will be found a schedule or summary indicating the nature of the claims comprised therein, with a statement of the amount claimed and the decision reached.

I believe that some general statement of the principles upon which the recommendations are founded should be enunciated, and I have, accordingly, written four general opinions, to which reference has been made throughout the individual decisions. These opinions are the following:—

Opinion No. 1.—Jurisdiction and Scope of Commission.

Opinion No. 2.—Death and Personal Injury Claims.

Opinion No. 3.—Loss of Personal Effects and Solatium.

Opinion No. 4.—Damages in the Nature of Interest.

I have had the advantage of perusing the reports of the British Commission, presided over by Lord Sumner, and the Administrative Decisions of the United States Mixed Claims Commission, written by Judge Parker, both of which have been of great assistance in clarifying the determination of principles and simplifying the assessment of claims.

With this arrangement of material, I trust that the decisions may be intelligently and clearly followed.

In the report of Mr. James Friel, K.C., two cases were especially referred to as meriting consideration, one arising out of the loss of the *Lusitania* (case 1606), and the other resulting from an air raid at Folkestone, England (case 1423). They were not dealt with because the records had not been completed. Both these cases have now been fully submitted, and are dealt with in the present report. May I also point out that in one case—that if Wm. Dickens (1696), while I have been unable to recommend an award as falling within the jurisdiction of the commission, I have, in so far as it may be competent to me, made a recommendation of a payment to claimant upon compassionate grounds. (Infra, pp. 232).

The commission has sought to hear all claimants personally, in order to judge, as would a court, of the sincerity and bona fides of the claims presented. The commission has not had the benefit of the presence of both parties before it, and has thus lacked the information gained from contesting litigants in the trial of a suit. Fortunately, however, there has been so great a similarity among claims falling under the various categories that a general knowledge and judgment of what is probable, has developed, which has been of material assistance in checking statements and reaching conclusions. In general, I have been very favourably impressed with the honesty of most of the claims reviewed and now dealt with, as also with the candid and straightforward manner in which claimants have submitted their complaints. It was only to be expected, with so great a number of claims, that some persons would endeavour to profit by the occasion to obtain money to which they had no right. While I do not flatter myself that all such claims have been eliminated, I think I may say that most of the fictitious or groundless demands have been reduced to the minimum as a result of seeing and hearing the claimants themselves. Many of the claims were stated at excessive figures, but this was largely due to ignorance of the nature of the awards to be made rather than to any desire to impose upon the commission. Claims were frequently predicated upon the theory of payment by an enemy wrongdoer and the vindicative character thereof became apparent. Such claims have been written down to more trustworthy figures, and confined within the limits of the commission's authority. Other claims founded upon conditions resulting from the mere existence of a state of war, such, for instance, as the Halifax explosion, have been specially dealt with.

I found, throughout the country, a great number of deserving claimants in very necessitous circumstances—some of them being practically destitute. To relieve this distress and to remedy the unhappy conditions of these applicants as far as I might, I deemed it my duty to give these cases prior treatment, and to submit the present report without delay. This has had for effect the postponing of some cases—few in number—in which the circumstances did not seem to warrant such urgent action, and in which I am sure the claimants concerned would willingly grant such priority.

There remain to be disposed of some 457 claims, 400 whereof are all of one class, viz; claims for damage caused by maltreatment as prisoners of war. Of these claims 150 have been heard, and the remainder will be afforded an early opportunity to present their cases. No effort has been made to deal with any of these claims in the present report, for the reason that additional information is required as to statements made by applicants upon reparation, medical and pension reports. It seemed best to hear them all and deal with the whole category in one report. These cases present features of a distressing character, and will require very serious consideration and study.

Another group of claims has been notified to the Commission by former Armenian subjects, naturalized as British subjects and resident in Canada. These claims—some 300 in number—have to do with damage to property in Armenia flowing out of the massacres perpetrated by the Turks upon their Armenian subjects in 1915, and the destruction of property which followed. To arrive at facts which will enable me to determine whether this commission has jurisdiction to entertain these claims, a number of typical cases will be submitted in the near future.

In cases of personal injury, where it became necessary to decide whether particular injuries or symptoms were directly due to the enemy action complained of, wholly or partially, and questions arose as to the permanence of the disability and probable monetary loss resulting from such conditions to the sufferer, it is obvious that my personal opinion would be of little value. I have had recourse to competent medical advice to determine the value and importance to be attached to medical certificates and testimony put before the Commission.

The present report involves an expenditure amounting to $561,884.50, payable to some 200 claimants, distributable throughout Canada from coast to coast.

In view of the series of general opinions hereto annexed, it is unnecessary further to outline the principles upon which I have endeavoured to decide cases. In a number of instances I have, reluctantly, been compelled to disallow claims having great merit, because I did not regard the claimants as entitled to claim before this commission. The reasons for such action have been fully set out in Opinion No. 1.

In the matter of procedure, many of the claimants were unrepresented by counsel and it was our aim to conduct the hearings as informally as possible, allowing applicants and their witnesses every latitude to present their cases as they saw fit, and by advice and counsel assisting them to bring out the salient points. While in practically every case claimants were required to file sworn declarations setting up their claims in detail, the widest power of amendment was extended, and, in some instances, the suggestion was made that claimant increase the demand to accord with evidence adduced. It therefore resulted that a few awards have been granted in excess of the amounts originally claimed. Documentary evidence has been relied upon in cases in which it has been impossible for claimants to appear in person, and the nature of the claim made it

practicable to assess the amount payable. To clear the dockets of cases which it was evident would not be pressed, decisions have been written disallowing or permitting withdrawal of such claims.

If it has been possible, in the comparatively short time at my disposal to hear approximately 400 cases, from one end of Canada to the other, and to render decisions in 272 cases, this is largely due to the assistance given me by the Deputy Commissioner, Mr. H. Spencer Relph, and his staff, to whose assiduous, intelligent and loyal co-operation may I be permitted to record my indebtedness.

All which respectfully submitted for your Excellency's consideration.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, MARCH 6, 1931.

OPINION No. 1

JURISDICTION AND SCOPE OF COMMISSION

At the very threshold of any consideration of reparation arising out of the late war, the question of the jurisdiction of the present commission must be scrutinized. In each case it must first be determined whether the claim falls within the scope of the Commission and in the event of a valid claim being put forward the measure of the damage sustained, insofar as monetary standards can be applied, must be determined and an award made.

What then is the source of this commission's authority, what the limitation placed upon its powers? The answer is to be found in

1st: The provisions of the Order in Council directing an investigation into claims for illegal warfare; and

2nd: The clauses relating to reparations found in the Treaty of Versailles, which became effective as of January 10, 1920, to which reference has been made in the Orders in Council.

1st: By Order in Council dated November 15, 1918 (P.C. 2822), the Under Secretary of State was directed to complete a list of "(*a*) Claims of persons residing or carrying on business in Canada who have been subjected to loss and pecuniary damage, arising from the destruction of life and property through the illegal warfare of the enemy, and (*b*) Claims for damages to which persons residing or carrying on business in Canada have been subjected for breaches of contracts, which contracts were prevented from being carried out owing to the operation of the Statutory List of persons in neutral countries with whom such contracts were declared illegal, and to examine and report upon all such claims as aforesaid."

Following a report of the Secretary of State dated October 17, 1921, furnishing a list of claimants, a further Order in Council was adopted on October 31, 1921 (P.C. 4032), recommending the appointment of the Honourable Sir John Douglas Hazen, K.C.M.G., a Commissioner to "investigate and report upon all claims as above mentioned for the purpose of determining whether they are within the categories above referred to in the first annex to section 1 of Part VIII of the said treaty and the fair amount of such claims, and to make such findings as may be of assistance to the Government in determining which, if any, of such claims should be paid and the extent of payment thereof." The preamble to which reference is made in the foregoing Order in Council reads

as follows: "The minister further submits that, under Article 231, Part VIII (Reparation) of the Treaty of Peace with Germany, the Allied and Associated Powers affirmed and Germany accepted the responsibility of Germany and her allies for causing loss and damage to which the Allied and Associated Governments and their nationals had been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies, and it was further provided that compensation may be claimed from Germany under Article 232 of the said Treaty in respect of the total damage under the categories in the First Annex of section 1 of Part VIII of said treaty——."

Some doubt having arisen as to whether claims arising through "the destruction of life and property" included claims for disability, a further Order in Council, dated May 21, 1923 (P.C. 910), issued, amending the previous commissions in the following language: "The minister observes that it was intended that the commission should include all claims arising in any way with respect to acts of the former enemies which are within the categories of the annex of the treaty above referred to (Treaty of Versailles). The minister, therefore, recommends that the commission in the premises be amended and that a new commission issue, . . . to investigate and report upon all claims which may be submitted to him for the purpose of determining whether they are within the First Annex to section 1 of Part VIII of the said treaty and the fair amount of such claims."

The present commission, of necessity, includes and has reference to the Orders in Council quoted and the present commissioner is clothed with the powers and privileges conferred upon his predecessors and is directed to consider and report upon the claims not previously heard or which have been filed after the date of the report of the previous commissioner (December 14, 1927).

2nd: The relevant sections of the Treaty of Versailles referred to are those comprised in Part VIII, Articles 231 and 232 with Annex I to the latter section. For convenience of reference there sections are set out as follows:—

ARTICLE 231

The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

ARTICLE 232

(First Two Paragraphs)

The Allied and Associated Governments recognize that the resources of Germany are not adequate, after taking into account permanent diminutions of such resources which will result from other provisions of the present Treaty, to make complete reparation for all such loss and damage.

The Allied and Associated Governments, however, require, and Germany undertakes, that she will make compensation for all damage done to the civilian population of the Allied and Associated Powers and to their property during the period of belligerency of each as an Allied or Associated Power against Germany by such aggression by land, by sea and from the air, and in general all damage as defined in Annex I hereto.

ANNEX I

Compensation may be claimed from Germany under Article 232 above in respect of the total damage under the following categories:—

1. Damage to injured persons and to surviving dependents by personal injury to or death of civilians caused by acts of war, including bombardments or other attacks on land, on sea, or from the air, and all the direct consequences thereof, and of all operations of war by the two groups of belligerents wherever arising.

2. Damage caused by Germany or her allies to civilian victims of acts of cruelty, violence or maltreatment (including injuries to life or health as a consequence of imprisonment, deportation, internment or evacuation, or exposure at sea or of being forced to labour), wherever arising, and to the surviving dependents of such victims.

3. Damage caused by Germany or her allies in their own territory or in occupied or invaded territory to civilian victims of all acts injurious to health or capacity to work, or to honour, as well as to the surviving dependents of such victims.

4. Damage caused by any kind of maltreatment of prisoners of war.

5. As damage caused to the peoples of the Allied and Associated Powers, all pensions and compensation in the nature of pensions to naval and military victims of war (including members of the air force), whether mutilated, wounded, sick or invalided, and to the dependents of such victims, the amount due to the Allied and Associated Governments being calculated for each of them as being the capitalized cost of such pensions and compensation at the date of the coming into force of the present Treaty on the basis of the scales in force in France at such date.

6. The cost and assistance by the Governments of the Allied and Associated Powers to prisoners of war and to their families and dependents.

7. Allowances by the Governments of the Allied and Associated Powers to the families and dependents of mobilized persons or persons serving with the forces, the amount due to them for each calendar year in which hostilities occurred being calculated for each Government on the basis of the average scale for such payments in force in France during that year.

8. Damage caused to civilians by being forced by Germany or her allies to labour without just remuneration.

9. Damage in respect of all property wherever situated belonging to any of the Allied or Associated States or their nationals, with the exception of naval and military works or materials, which has been carried off, seized, injured or destroyed by the acts of Germany or her allies on land, on sea or from the air, or damage directly in consequence of hostilities or of any operation of war.

10. Damage in the form of levies, fines and other similar exactions imposed by Germany or her allies upon the civilian population.

Each claim presented must, therefore, be subjected to scrutiny in the light of the foregoing provisions, which may be regarded as the charter under which the commissioner is empowered to act. Having decided that a case is within its jurisdiction, the task of the commissioner is to decide the merits of the issue raised and "to make such findings as may be of assistance to the Government in determining which, if any, of such claims should be paid and the extent of payment thereof." The question of payment of the claim need not be considered; the commission is limited to dealing with the assessment of the amount payable, leaving to the proper authority to deal, as it may deem advisable, with such recommendations as may be made.

In performing these functions the commissioners shall not be bound by any particular system or code of laws, but shall decide all cases upon principles of justice, equity and good faith. Awards of former commissioners will be given great weight and well established rules of law, judicial decisions and the works of recognized jurists where found applicable, will be consulted to assist in reaching conclusions. Having regard to the nature of the claims now under report, the rules of evidence, applicable before a judicial tribunal, would be unduly restrictive, and the widest latitude has been and will be accorded claimants in substantiating the facts alleged.

In general, it may be said here—leaving to be discussed in greater detail in further opinions—that it is only damage *directly* caused by the enemy that will form the basis of awards. Such is the clear statement and purport of the sections above quoted. As long, therefore, as their exists a clear unbroken chain of connection between the act complained of and the damage sustained, the claimant will be entitled to an award. This will have for effect the elimination of all *indirect* losses—those in which, upon well established principles of remoteness of damage, the claimant cannot succeed. To apply a formula or test to these cases is difficult, but possibly such a test might be stated as follows: Is the loss, asserted by the claimant (entitled by nationality and residence to recover) established in such a way as to permit of its being reasonably measured with fair accuracy by monetary standards and is that loss directly chargeable to an act of the enemy?

While it may not be pertinent to the subject matter of the present opinion, I think it clearly follows that the wide language of section 231 of the Treaty of Versailles is qualified and controlled by the provisions of section 232 and the annex thereto. In section 231 Germany "accepts responsibility . . . ." for causing, "all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war . . . ." but by section 232 Germany undertakes to make compensation for damage done in the manner defined in Annex 1. The limitation to *direct* damage is unmistakable in the Annex. It is perhaps the distinction pointed out by the United States Mixed Claims Commission between Germany's *moral* responsibility, affirmed by section 231 and her *financial* responsibility, undertaken by section 232.

The present commission was created in virtue of an Order in Council dated September 6, 1930, by the terms whereof, as above stated, the Commissioner is directed to proceed to consider and report upon claims not already heard by the previous commissioners, or which have been filed after the date of the report of the previous commissioner (December 14, 1927). I apprehend, therefore, that my powers are clearly restricted to hearing and determining only those cases which have not been dealt with by my predecessors. I am not empowered to reopen any cases decided, and I am not concerned with the decisions rendered except as they may be of assistance, as precedents, in the determining of outstanding claims. I consider, moreover, that while I am not bound by previous decisions, these should receive very careful consideration, because it seems desirable and just, in so far as possible, that all claimants should be treated upon the same basis. For these reasons I have analyzed the previous awards and in any instances in which I am unable to agree with the principles governing such awards, I shall state my difference of opinion.

It is unnecessary for me to deal with the situation which arose in respect of claims heard by the previous commissioners and in which they did not agree as to the award to be made. Under legislation enacted to cover such cases, a reference has been had to the Exchequer Court of Canada and such cases are not within the scope of my enquiry.

A question of jurisdiction *ratione personae* arises in regard to a number of cases. Many of the claimants, while British subjects, and, in the language of the Treaty falling within the category of "nationals," were not at the time of the loss complained of resident in Canada. They have come to Canada to reside permanently at a date subsequent to the loss or damage complained of. Theoretically, therefore, and upon strict principles of law, it would be logical to declare that only such British subjects as were resident in Canada at the time of the loss complained of, or were actually on their way to Canada to reside permanently, should be admitted to claim before a Canadian Commission. But the nature of the reparation sought is not purely legal. There is a moral aspect as well, made clear by the terms of the Treaty of Peace, and accepted by Germany. Her obligation to pay may be said to be contractual, since by the very terms of the Treaty she has "undertaken" to "make compensation for all damage done. . . ." All British nationals who have sustained damage of the nature specified are entitled to recover, but not all of these are eligible under Canadian enactments. It becomes necessary, therefore, to find a date constitutive of jurisdiction in Canada. It would operate injustice if only those who were actually resident in Canada at the time of the loss were to be admitted, because, having come to Canada to reside, they would find themselves barred from appealing to the British tribunal set up to determine British claims. (See Commission appointing Lord Sumner as Royal Commissioner). The British Royal Commission decided that Canadians domiciled in Great Britain or elsewhere out of Canada would not be regarded as belonging to

the United Kingdom but to Canada. Notice was also received from the Colonial Office that if such persons are not regarded by the Canadian Government as eligible for compensation, from any funds which may be made available for *ex gratia* grants to persons belonging to Canada, there will be no source to which they can look for compensation. (See Friel report pp. 18).

I have, accordingly, decided to regard as Canadians, and to admit for purposes of compensation, all claimants of British nationality who were resident in Canada on or before January 10, 1920, date of the ratification of the Treaty of Versailles. This was the date upon which Germany undertook to pay and may be said to be the pivotal date upon which obligations under the treaty revolved and became effective. In adopting this date upon which claims became impressed with what I may term Canadian nationality, I confess that I may not be following some of the decisions of the previous commissioners, but having regard to the justice and equity of the question, as I see it, I would propose to be guided thereby.

That adherence to strict legal principles must not be given greater prominence than the justice and equity of each case demands is made clear in the report of Lord Sumner upon the conclusion of his labours as British Reparations Commissioner. I conclude in quoting from his report at page 11:—

"Those who are entitled to be admitted to claim are persons, who have ascertainable and definite grounds of claim, such as fall within the Annexe of the Treaty of Versailles which deals with the matter, and those alone who can prove such grounds can be received. Neither the relief of want, however genuine, nor compensation for public service, however brave and loyal, is the object of this Fund. All that is possible is to consider suitable cases as sympathetically as may be, and to preserve as great a measure of equity as is possible among claimants, whose rights to claim are equal though extraordinarily various both in amount and in character."

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, March 3, 1931.

OPINION No. 2

DEATH AND PERSONAL INJURY CLAIMS

It is unnecessary here to discuss the various enactments under which a right of action is given in cases of this character. The civil law has long recognized the right of action for injuries resulting in death and in most common law jurisdictions, under various statutes a similar cause of action is admitted, subject to various limitations as to the measurement of damages, which restriction, however, would appear to receive very liberal interpretation by the courts.

By the Treaty of Versailles, Germany has recognized her liability and has undertaken to pay what may be awarded in cases falling within the provisions of the treaty. We are, therefore, now concerned only with the principles upon which assessment of damages in such cases may be made. Generally speaking, the basis upon which awards are made in cases of death and for personal injuries is to be found in the legal principle that every invasion of the rights of the individual imports an injury for which the law gives a remedy. Such remedy will consist in compensation, so far as it is susceptible of an estimate in money, for the loss and damage caused in the one case, to the dependents of the deceased, and in the other, to the claimant himself, by reason of the wrongful act complained of. Such remedy must be commensurate, as far as possible, with the damage sustained.

Before this commission, the source or text of the right to direct payment of such compensation is drawn from the provisions of the Treaty of Versailles dealing with Reparations, sections 231 and 232 (Annex 1 thereto) of Part VIII,

which has been set out at length in Opinion No. 1. The portions relevant to the present discussion are sections 1, 2 and 3 of the annex, which, for convenience of reference, are as follows:—

"Compensation may be claimed from Germany under Article 232 above in respect of the total damage under the following categories:—

"(1) Damage to injured persons and to surviving dependents by personal injury to or death of civilians caused by acts of war, including bombardments or other attacks on land, on sea, or from the air, and all the direct consequences thereof, and of all operations of war by the two groups of belligerents wherever arising.

"(2) Damage caused by Germany or her allies to civilian victims of acts of cruelty, violence or maltreatment (including injuries to life or health as a consequence of imprisonment, deportation, internment or evacuation, or exposure at sea or of being forced to labour), wherever arising, and to the surviving dependents of such victims.

"(3) Damage caused by Germany or her allies in their own territory or in occupied or invaded territory to civilian victims of all acts injurious to health or capacity to work, or to honour, as well as to the surviving dependents of such victims . . . ."

As pointed out in Opinion No. 1, liability is limited to losses caused *directly* by acts of the enemy. This results clearly from the language of the sections quoted and is consonant with the familiar legal principle of "proximate cause". Provided the loss results directly from an act of war, it is not material how many links there may be in the chain of causation connecting the act complained of with the loss. But there must be no break, or intervening cause, in the chain. Our enquiry must, therefore, be guided by the "proximate cause" rule, applied with such discretion as will assure to each claimant fair and equitable treatment. The rule referred to is well summed up in Lord Bacon's comment upon the legal maxim, "In jure non remota causa, sed proxima spectatur". His Lordship said:—

"It were infinite for the law to consider the causes of causes and their impulsions one of another, therefore it contenteth itself with the immediate cause, and judgeth of acts by that without looking for any further degree."

(Beven "Negligence" 3rd Ed. Vol. 1, p. 82.)

Having dealt with the "proximate cause" rule, to what test or scrutiny should each case be subjected to assure that the damage is properly chargeable to the wrongdoer? To put the proposition conversely,—what grounds of damage will in no case be admissible? Generally speaking, these grounds may be classed under the general term of "remoteness". Mayne, in his work on Damages, 7th Ed. p. 42, states the theory thus:—

"Damage is said to be remote, when, although arising out of the cause of action, it does not so immediately and necessarily flow from it, as that the offending party can be made responsible for it."

He further summarizes the law by stating three rules:—

"(1) Damage is recoverable if, without intervening causes, it is the direct result of a wrongful act operating in the physical conditions existing at the time of the wrongful act, even although the conditions are peculiar conditions of which the wrongdoer had no knowledge, and the existence of which he would not reasonably anticipate.

"(2) Damage is recoverable if, despite intervening causes, it was intended by the wrongdoer as the consequence of his wrongful act.

"(3) Damage is recoverable if, despite intervening causes, it is the natural and probable result of the wrongful act, that is a result which the wrongdoer contemplated or should have contemplated.

"If the damage is not recoverable under any of these rules, it is said to be too remote."

Up to this point, the principles stated apply equally to death claims and to personal injury claims. For purposes of assessment, however, the considerations applying to the two classes of cases will differ and should be dealt . . . separately.

1. In dealing with *death cases* it is not the value of the life lost which must be determined, but the loss sustained by those who were dependent upon the deceased. The basis of compensation rests upon the losses resulting to claimants from the death, not the physical or mental suffering of the deceased or his loss or the loss of his estate. Compensation does not vest in the claimant through the decedent—he never acquired such right. From the moment of the death the right to demand compensation vests in the survivors who have suffered loss thereby. Such claim is "original not derivative".

The factors or elements to be considered in arriving at the quantum of the compensation payable have been very clearly stated in opinion of the American Mixed Claims Commission. I quote as follows:—

"Bearing in mind that we are not concerned with any problems involving the punishment of a wrongdoer but only with the naked question of fixing the amount which will compensate for the wrong done, our formula expressed in general terms for reaching that end is: Estimate the amounts (*a*) which the decedent, had he not been killed, would probably have contributed to the claimant, add thereto (*b*) the pecuniary value to such claimant of the deceased's personal services in claimant's care, education, or supervision, and also add (*c*) reasonable compensation for such mental suffering or shock, if any, caused by the violent severing of family ties, as claimant may actually have sustained by reason of such death. The sum of these estimates, reduced to its present cash value, will generally represent the loss sustained by claimant.

"In making such estimates there will be considered, among other factors, the following:—

"(*a*) the age, sex, health, condition and station in life, occupation, habits of industry and sobriety, mental and physical capacity, frugality, earning capacity and customary earnings of the deceased and the uses made of such earnings by him;

"(*b*) the probable duration of the life of deceased but for the fatal injury, in arriving at which standard life-expectancy tables and all other pertinent evidence offered will be considered;

"(*c*) the reasonable probability that the earning capacity of deceased, had he lived, would either have increased or decreased;

"(*d*) the age, sex, health, condition and station in life, and probable life expectancy of each of the claimants;

"(*e*) the extent to which the deceased, had he lived, would have applied his income from his earnings or otherwise to his personal expenditures from which claimants would have derived no benefits;

"(*f*) in reducing to their present cash value contributions which would probably have been made from time to time to claimants by deceased, a 5 per cent interest rate and standard present-value tables will be used;

"(*g*) neither the physical pain nor the mental anguish which the deceased may have suffered will be considered as elements of damage;

"(*h*) the amount of insurance on the life of the deceased collected by his estate or by the claimants will not be taken into account in computing the damages which claimants may be entitled to recover;

"(*i*) no exemplary, punitive, or vindictive damages can be assessed."

The foregoing enumeration, while greatly particularized, is not to be regarded as exhaustive, and, in any particular case special factors brought to the attention of the commission will be weighed and considered. It must be borne in mind that the object of the inquiry is not merely to find a sum which a defaulting defendant in an action at law might be called upon to pay, but, upon principles of equity and justice to provide a sum which, so far as possible, may be regarded as a substitute for the future for the loss of earnings or maintenance which a claimant suffers at present. This inevitably imports that the Commissioner must exercise a wide discretion in the assessment of the damages and cannot simply regard himself as discharging the ordinary functions of a jury in litigated cases.

I quite agree with the statement contained in the first sentence of the above quotation, that no punitive or exemplary damages can be granted. "This commission has no punitive mission, nor has it any offence to punish."

The High Contracting Parties to the Treaty of Versailles dealt with any questions of this nature and under the language of the relevant sections have confined the functions of this commission to *compensatory* damages.

In death cases, mental anguish, grief and suffering occasioned by the loss of a parent, husband, child or other near relative may entail consequences which will allow of a recovery in certain circumstances. As previously pointed out, I do not consider that damages should be allowed to the estate of the deceased for mental suffering or pain sustained by him. That claim dies with the victim and to make allowance therefor would savour of punitive damages.

2. In *personal injury* cases the factors or elements indicated for computing damage sustained may be adapted in so far as applicable. Medical testimony will, of course, be necessary to establish the degree of disability of the claimant, and the connexity between the injury complained of and the condition of claimant. The obvious difficulty of establishing, at this date, that a present condition results from a cause operating more than ten years ago, must be clearly kept in view in the exercise of the discretion given the commissioner.

Mental suffering should, in my opinion, form the basis for compensation when it is real and actual. That it is difficult to estimate the damages payable for such injury is no reason why the loss should not be measured as accurately as possible and awards made in appropriate cases. If compensation for bodily suffering is accorded, why should there be any different rule for mental suffering? The results in both cases, in their repercussions upon the health and capacity of the individual, may be measured and identified as distinct causes of loss and damage.

ERROL M. McDOUGALL,
Commisisoner.

OTTAWA, March 3, 1931.

OPINION No. 3

LOSS OF PERSONAL EFFECTS AND SOLATIUM

A great number of claims have been asserted before this Commission relating to the loss of personal effects by seamen in the Merchant service and fishermen aboard fishing schooners due to the destruction of vessels by enemy action. Owing to their similarity, and in general to the similarity of the effects lost, a scale allowance covering the value of such effects was adopted by the British authorities, depending upon the rating of the individual concerned, and also conditioned upon the tonnage of the vessel concerned and the year during which the loss occurred. It was, moreover, decided to allow a solatium for the fact of being torpedoed, and a scale was fixed for each seaman. It is unnecessary here to discuss in detail these scales and the allowances made. It will be sufficient to determine in what manner the previous Commissioners dealt with claims of this kind, in order to determine what allowance should now be made in similar cases. In fact, many of the claims cover seamen aboard the identical vessels in respect of which awards have already been made, and it seems desirable, therefore, that the present claims should be dealt with on a similar basis, and awards made consistently with amounts heretofore accorded. Mr. Friel in his decision in the *Mayola* case, commenting upon the British scale as made applicable to Canadian conditions (Vol. II, pp. 66), expresses himself as follows:—

"The Captain of the vessel under 1,000 tons, which was torpedoed in 1916, was allowed $100 for cash, $400 for personal effects, and from $500 to $1,500 maximum as solatium for being torpedoed; the mate $75 for cash, $260 for

personal effects, and from $250 to $750 maximum as solatium; seamen $50 for cash and $215 for personal effects (1918) solatium or torpedo money $125 to $375.

"I consider that our seamen and fishermen are entitled to pretty nearly the maximum and captains and mates to something better than average between the maximum and minimum British allowance, and so I allowed captains $900, mates $700, and seamen and fishermen $600 to cover allowance for both personal effects and solatium, and I think it would be wise to treat them all alike."

This allowance was apparently somewhat more generous than the sum which Dr. Pugsley was prepared to allow, as is indicated in the notes of his decision at pp. 67.

This question is given further attention in case No. 626, at pp. 106 of the report, dealing with the schooner *Muriel*. The commissioner says: "I do not think there is any authority for allowing for the prospective catch, but in assessing compensation to fishermen, I would adopt the scale used by the British Reparations Claims Department, as I understand it. By this scale the solatium for a fisherman ranges from $125 minimum to $375 maximum. A fisherman is in a different position from an ordinary seaman because he has an interest in the catch of the vessel, and is often part owner in the same; when, therefore, his fishing vessel is sunk, a fisherman is absolutely without employment until a new vessel is built, as his whole earnings and interest were lost when his former vessel was sunk. In view of this, I have decided to allow solatium at $350, or almost the British maximum."

"As regards personal effects, the British scale allows $215 (in the year 1918) for a vessel under 1,000 tons, and $50 for cash, being a total of $265. Some slight reduction in this amount was thought necessary because it was improbable that a fisherman would be carrying $50 in cash about his person, and it was therefore decided to make an award of $250 for personal effects in the case of such fishermen, and I would award $250 for personal effects."

It will be noted that the first citation refers to seamen and fishermen alike, but it results from the later quotation that the fishermen, for the special reason given, were to receive $100 more than seamen in the Merchant service. With this distinction I agree, although, in general, as later pointed out, I do not consider that such amount, being in the nature of loss of future earnings, should form the basis of award. While I might not have arrived at precisely the same figure had I been fixing the scale in the first place, I consider it just and equitable and would propose to adopt it, thus ensuring, what I regard as highly desirable in these cases, uniformity of award. From an analysis of previous awards to claimants in these categories, I find that the average amounts awarded to the various ratings were as follows:—

	$
Captains' allowance	980
Officers, Pursers, Engineers	869
Seamens'	582

The minimum and maximum for the different classes works out thus:—

	Captains'	Officers	Seamen
	$	$	$
Solatium—minimum	600	250	125
maximum	1,500	750	400
Personal effects—minimum	543	200	200
maximum	1,030	1,400	375

Having regard to the foregoing considerations, I would, therefore, propose to adopt the following scale awards, covering loss of personal effects and solatium, subject, of course, to modification in any particular case in which it would not be equitable to apply them:—

1. *Fishermen* (loss of effects and solatium)—	$	
Captain	900	
Mate	700	
Fishermen	600	
Boy (apprentice)	300	
2. *Seamen* (loss of effects)—	$	$
Master mariners	500 to	1,250
First Mates	350 "	600
Engineers	350 "	600
Wireless Operators	300 "	500
Second Mates	200 "	350
Seamen and other ratings	250	

With a sum of $250 in each of the classes covered in (2) for solatium.

In many of the cases falling within this category, claims have been made for loss of time consequent upon the break up of the trip, losses estimated upon the prospective catch of fish, and losses of wages through enforced detention and internment involving ability to earn during such period. These claims are very general, not only amongst the fishermen claimants but also by seamen aboard merchant vessels.

While, as a general proposition of law, loss of profits may be considered as an element of damage, it has yet been held uniformly by the previous commissioners that, under the Treaty of Versailles, no such claims can be entertained. This also is the unmistakable view of the British Reparations Commission and the United States Mixed Claims Commission. I quote from the report of the British authorities in submitting the British Reparations Account to the Reparations Commission:—

"In calculating the amount of damage in each case only damage caused by specific acts of Germany and her allies, or damage directly in consequence of specific hostilities or specific operations of war, has been included, and indirect and consequential damage has been excluded. . . . . "Compensation amounting to a very large sum has also been claimed in respect of loss of earnings or business profits owing to the claimants being kept in internment, or, in the case of seafarers, in respect of loss of wages or salary during the time they were unemployed owing to their ship having been torpedoed, and these elements of claim have also been disregarded as being indirect or consequential damage."

The United States Commission adopted the same view. It is only necessary to quote one finding of the Umpire, at page 343 of the report:—

"Germany is not obligated to pay (*b*) the value of the 'probable catch' which had not been caught but which it is claimed would have been caught had the vessel not been destroyed."

It will be seen that the principle involved is of general application and will govern all claims in which business losses, future earnings and prospective catch are advanced. The reasoning upon which these views are put forward, rests upon an interpretation of Annex I to Section I, Part VIII, of the Treaty of Versailles, whereby damage is limited to physical or material damage to tangible things (sec. 9). Claims of the nature now under consideration cannot, on the restrictive language of the Annex, be so regarded.

The strict application of this principle would eliminate the portion of the amounts awarded to fishermen in the scale awards above referred to for loss of employment due to the destruction of the vessel, but the amount is small, and for the reasons given is to be regarded as an exception to the rule.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, March 3, 1931.

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OPINION No. 4

DAMAGES IN THE NATURE OF INTEREST

The payment of interest upon reparation claims forms a very considerable part of the awards and should, therefore, receive special consideration.

It is unnecessary to discuss in detail the principles underlying interest as an element in the computation and assessment of damages. Both at common law and by civil law, when damages are payable the sum of money found to represent such damages is a debt upon which interest is payable, subject to various restrictions.

Ordinarily, in the absence of stipulation, interest is only due from the date the debtor has been put in default to pay the capital sum (C.C.1070). Obviously, it is not practical to apply to cases of the nature now under consideration the rules of legal default. By the very nature of the claims no such default could be established. It does appear, however, that by the terms of the Treaty of Versailles, Germany undertook to make full, adequate and complete compensation or reparation for all losses sustained by the Allies falling within its terms. This may be regarded as an undertaking that Germany will pay interest as from the date of the ratification of the Treaty on January 10, 1920. It was upon this principle that the late Dr. Pugsley determined generally that interest upon claims should run, and in this he was followed by Mr. Friel. I am disposed to accept, in general, the adoption of this principle, thus affording uniformity of award.

In an appropriate case of damages for property taken or destroyed, claimant is entitled to be placed, as far as possible, in the position in which he was before the loss. Compensation was not made at the time of the loss and payment made now or at a later day of such damages would not make the claimant whole, unless interest is allowed. "A sum payable in the *past* is *now* equivalent to that sum with interest thereon as covering the value of the use of that money during the time the owner has been deprived of it."

In cases where the "loss is either liquidated or the amount thereof capable of being ascertained with approximate accuracy through the application of established rules by computation merely, as of the time when the actual loss occurred", Mr. Friel recommended payment of interest from the date of loss. This is in harmony with the decision reached by the United States Mixed Claims Commission, the above quoted words being taken from Administrative Decision No. 3, dealing with damages in the nature of interest. To this class of cases belong claims for property taken, damaged or destroyed. I would propose to follow the same course in recommending the payment of interest upon awards.

It follows, therefore, that in cases of losses based upon personal injuries, death, maltreatment of prisoners of war, or acts injurious to health, capacity to work, etc., in which the amount of the damage is not readily computable, interest will be allowed as from January 10, 1920, and in cases of losses based upon property taken, damaged or destroyed, interest will be allowed, generally, from the date of loss. Had I been the first to approach this subject, it is possible that I might have dealt with the allowance of interest upon a different basis, but having regard to the decisions of the previous Commissioners, and the evident justice of seeking to treat all claimants in comparable cases, as far as possible, upon equal terms, I have reached the foregoing conclusion. The method of computation indicated cannot be rigidly adhered to in all cases. Thus, in scale awards made to seamen and fishermen upon a lump sum basis covering loss of effects and solatium (Opinion No. 3), interest will be allowed upon the whole amount from January 10, 1920, rather than upon the personal effects from the date of loss and upon the solatium from January 10, 1920.

This would seem fair in view of the nature of the awards of these cases in which precise particulars of the loss are not required, and the solatium is a purely *ex gratia* payment.

The rate of 5 per cent per annum has been applied in previous cases and is, I think, the proper standard to adopt under the Treaty itself (Par. 16 of Annex II to Section I of Part VIII and Par. 22 of the Annex to Section III of Part X). This rate of interest is also the legal rate in Canada.

In the cases of former Canadian claimants who have since acquired foreign citizenship, I am of opinion that interest should be allowed only up to the date of their naturalization in the foreign country.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, MARCH 3, 1931.

CLASS "A"

Losses Arising out of the Destruction of Fishing Schooners and Sailing Vessels

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LOSS TO FISHERMEN—84 CASES

LOSS OF SAILING VESSELS AND TO SEAMEN ABOARD—26 CASES

CLASS "A"

LOSSES TO FISHERMEN

Canadian Fishing Schooner "Nelson A," Sunk August 4, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1670	Adolphus Fitzgerald	Loss of effects left on board	77 00	250 00
1778	Capt. John Simms	Supplementary claim *re* equipment lost, share of catch and expenses *re* return of crew.	943 66	Disallowed

CASE 1670—ADOLPHUS FITZGERALD

This claim arises out of the destruction of the fishing schooner *Nelson A*, captured by the enemy and sunk on August 4, 1918, off Shelburne, Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, is established and her loss has been the subject of awards made by the previous commissioner (Cases 32 to 50).

The claimant, a Canadian, was not aboard at the time of the loss. Owing to illness, he had been left ashore on that particular voyage, but he had left aboard his personal effects and now makes claim for the value thereof. That his effects were, in fact, on the vessel is proven by the statement of Captain Simms, who appeared before the commission in Yarmouth.

Applying the principles stated in the various opinions annexed to my report and, in particular, having regard to Opinion No. 3, I consider the claimant entitled to an award for the loss of his effects, upon the same basis as other fishermen claimants. I, accordingly, recommend payment to him of the sum of $250 with interest thereon at the rate of five per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1778—CAPTAIN JOHN SIMMS

This claim arises out of the destruction of the fishing schooner *Nelson A*, captured by the enemy and sunk on August 4, 1918, off Shelburne, Nova Scotia.

The claim is supplementary to claim and award already made to Captain Simms under decisions number 32 to 50 decided by the previous commissioner. In that award Captain Simms received a total sum of $983.34, made up of the usual allowance for personal effects and solatium of $900 with a further sum of $83.34 representing the captain's share in the catch.

The fact of the loss of the vessel, in the manner indicated, is established by the decisions above noted and her owner also received an award for her destruction, as did also the members of the crew for the loss of their personal effects, share in the catch and the usual solatium.

The claimant appeared before this commission at Yarmouth and made claim for a total amount of $943.66, together with interest thereon from the date of the sinking of the vessel. He contends that he had no opportunity to put forward his claim before the previous commission and that the claims of himself and other members of the crew were advanced by the owner, Henry A. Amiro, and the award made was upon the representations of the owner.

The first item in the present claim consists of the cost to the captain in outfitting for the trip, $725. The second item is for the amount alleged to have been underallowed as skipper on the trip and is made up in detail of a four per cent allowance on stock or trip which the Master is entitled to receive over and above the shares allotted to the crew, and ten per cent on "stock" as allowance for trawl gear, amounting to $210 as against which there is a deduction of the sum of $83.34 allowed in the previous award, bringing the figure to the amount stated of $126.66. The third item of the claim is for the fares of the captain and crew from Lockeport, Nova Scotia, to Yarmouth, N.S, after the sinking, which the captain alleges he paid out of his pocket from moneys borrowed by him for that purpose and has never been refunded.

The captain explains that it is the practice in regard to these fishing vessels to make the advances necessary to outfit the ship with provisions, such as ice, stores, swings, cables, and other items. These articles are delivered to the vessel and charged against the Master as an account payable by him and, when the vessel returns from her voyage and a sale of the fish is made the Master pays this bill and thereafter, when the total profit of the trip has been ascertained, a division is made between the owners and the sharesmen. In this case, as the vessel was lost before completing her voyage, with a cargo aboard, the Master did, in fact, pay to the owner, Amiro, the amounts which had been charged for outfitting the vessel and which were payable by him.

Unfortunately for the claimant, the owner of the vessel, Amiro, afterwards went into liquidation and any claim which the claimant would have against him thereby became of little value. As a matter of fact, however, it appears from the record that some settlement was made between the claimant and the Trustee in Bankruptcy of the owner. It also appears from the previous decision that the captain settled his claim with the owner and with the sharesmen. The award by the previous commissioner in favour of owners included loss of equipment and stores which was stated in the claim at $1,689.60.

In these circumstances, therefore, it would appear to me that the present claimant must look to the owner of the vessel for settlement of this item of his claim. It is unfortunate that the owner should not be in a position to make payment, but I cannot find in the record sufficient evidence to justify me in holding that the loss so sustained by the claimant is a direct damage resulting from enemy action.

The amount advanced by the captain, according to his declaration, is to be deducted from the men's share of the trip. There was, however, nothing to realize on, on this particular trip and, according to statement of counsel for Captain Simms,

> "This claim paid many years after the crew was already well scattered and it was impossible for Captain Simms to collect anything from them."

It would seem clear, therefore, that the claimant's claim should be directed as above stated to the owner and also to the particular members of the crew who were bound to contribute.

As to the second item of the claim, that the captain did not receive his larger share in the catch to which he would be entitled, I must again hold that, if a portion of his share has been awarded to someone else, he must exercise such recourse as may be available to him against such persons.

As to the third item of the claim for fares paid by the captain for the crew from Lockeport to Yarmouth, Nova Scotia, this is a liability of the owner for which the captain should have or could recover and I cannot allow it. With great reluctance, therefore, I am compelled to disallow the claim as presented.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 30, 1930.

Canadian Fishing Schooner "Verna D. Adams", Sunk August 25, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1616	Winslow Stuart	Boy on schooner. Claims for effects and solatium.	600 00	300 00
1617	Alonzo Stuart	Boy on schooner. Claims for effects and solatium.	600 00	300 00

CASE 1616—WINSLOW STUART **CASE 1617**—ALONZO STUART

These two claims arise out of the destruction of the fishing schooner *Verna D. Adams* by enemy action on August 25, 1918, off Little Miquelon Island, Newfoundland.

The fact of the loss of the vessel, in the manner indicated, has been established and her loss has been the subject of awards made by the previous Commissioner (Cases 56 to 122).

While claimants' names do not appear as members of the crew in the previous records, they have established their presence aboard by statements of fellow members of the crew and their own testimony. They are Canadians and at the time of the loss were serving as boys aboard the vessel.

They now make claim for loss of their personal effects and solatium. Applying the principles stated in the various Opinions annexed to my Report and, in particular, having regard to Opinion No. 3, I consider the claimants entitled to awards on the same basis as other fishermen claimants. I, accordingly, recommend payment to them as follows:—

Case 1616—Winslow Stuart.. .. .. $300 00
1617—Alonzo Stuart.. .. .. 300 00

The amounts so payable, for the reasons stated in Opinion No. 4, will bear interest, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 24, 1930.

Canadian Fishing Trawler "Triumph" Captured August 20, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts
1842	Capt. Sigurd Sorensen	Claims for effects, $600; catch, $50; loss of income, $1,040.	1,690 00	Disallowed

CASE 1842—CAPTAIN SIGURD SORENSEN

This claim arises out of the destruction of the steam trawler *Triumph* by enemy action on August 20, 1918, off the coast of Nova Scotia. The fact of the loss of the vessel in the manner indicated is established by Admiralty reports, and her loss has been the subject of an award made to her owners by the previous commissioner (Case No. 1459).

As appears from certificate filed of record, claimant was aboard the vessel at the time of her loss. He makes claim for loss of personal effects, cash, loss of share of the catch and loss of time to a total sum of $1,690.

Claimant was originally a Norwegian citizen and alleges that he came to Canada to reside in April, 1915. He remained a Norwegian citizen until April 21, 1920, when he became naturalized as a British subject, which fact is evidenced by copy of naturalization certificate filed of record.

For the reasons stated in Opinion No. 1, claimant is without right in claiming before this Commission and I am compelled to disallow his claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 5, 1931.

United States Fishing Schooner "Muriel", Sunk August 3, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1609	Willard Larkin	Claims for effects, etc., and share of catch.	850 00	600 00
1613	Augustus Nickerson	Claims for effects, solatium	600 00	600 00
1624	Gordon Hamilton	Claims for effects, etc., loss of income.	675 00	600 00
1640	Isaiah W. D'Entremont (NOTE.—American naturalization Sept. 15, 1924.)	Claims for effects and solatium	600 00	600 00
1647	Mrs. Marion Gardiner	Widow of James Gardiner, claims for effects and loss of income.	1,250 00	600 00
1659	Howard Chetwynd	Claims for effects and loss of income.	1,100 00	600 00
1671	Manus Nickerson	Claims for effects on board—not on board himself.	720 00	250 00
1675	William Doucette	Claims for effects and solatium	600 00	600 00
1680	Mrs. Mary E. Brown	Widow of John L. Brown, claims for loss of life, loss of effects, etc.	10,000 00	2,500 00
			250 00	600 00
1690	Amos Forbes	Claims for effects and loss of income.	720 00	600 00
1707	John Bernard Porter (Pothier)	Claims for effects and solatium	600 00	600 00
1754	Jacob G. Abbott	Claims for effects and solatium	600 00	600 00
1903	Cornell Goodwin	Claims for effects and solatium	600 00	600 00

CASE 1609—WILLARD LARKIN
1613—AUGUSTUS NICKERSON
1624—GORDON HAMILTON
1640—ISAIAH W. D'ENTREMONT
1659—HOWARD CHETWYND
1675—WILLIAM DOUCETTE
1690—AMOS FORBES
1707—JOHN BERNARD PORTER (POTHIER)
1754—JACOB G. ABBOTT
1903—CORNELL GOODWIN

This group of claims arises out of the destruction of the American fishing schooner *Muriel* by enemy action on August 3, 1918, off Seal Island, Shelburne county, Nova Scotia.

The fact of the loss of the vessel in the manner indicated has been established by report from the United States Mixed Claims Commission and her loss has been the subject of awards made to Canadian members of the crew by the previous commissioner (Cases 626-632).

The presence of these claimants, all Canadians, aboard the vessel as members of the crew is proven by the crew list furnished by the Mixed Claims Commission, corroborated by the statements of other witnesses. The claims as presented are for loss of personal effects, and solatium on the basis of awards made to other seamen aboard fishing vessels. In the case of Isaiah W. D'Entremont, the claimant became a citizen of the United States on September 15, 1924 (No. 2041658), and will be entitled to interest only till the time of his naturalization (Opinion No. 4).

Applying the principles stated in the various opinions annexed to my report, and in particular having regard to Opinion No. 3, I consider that claimants are entitled to awards upon the same basis as other fishermen claimants. I, accordingly, recommend payment to them as follows:—

Case 1609—Willard Larkin	$600 00
1613—Augustus Nickerson	600 00
1624—Gordon Hamilton	600 00
1640—Isaiah W. D'Entremont	600 00
1659—Howard Chetwynd	600 00
1675—William Doucette	600 00
1690—Amos Forbes	600 00
1707—John B. Porter	600 00
1754—Jacob G. Abbott	600 00
1903—Cornell Goodwin	600 00

The amounts so payable, for the reasons stated in Opinion No. 4, will bear interest at the rate of 5 per cent per annum from January 10, 1920, to date of payment, with the exception of Case 1640, Isaiah W. D'Entremont, who will receive interest only to September 15, 1924.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1647—MRS. MARION GARDINER

This claim arises out of the destruction of the United States fishing schooner *Muriel* by enemy action on August 3, 1918, off Seal Island, Shelburne County, Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, has been established as shown in the preceding decision. The claimant, as the widow of James Gardiner, a Canadian, who was a member of the crew, now makes claim for the loss of the personal effects of her husband, loss of wages and interest in the trip on which the vessel was engaged. The presence of the late James Gardiner aboard the vessel is proven by the crew list furnished by the Mixed Claims Commission corroborated by the statements of witnesses who were shipmates.

The deceased lost his life later when he strayed away in his dory from the vessel on which he was engaged. As far as the record goes, no administration of his Estate has been taken out. Having regard to the circumstances, and applying the principles laid down in Opinion No. 3, I consider that the Estate of the late James Gardiner is entitled to the usual allowance for loss of personal effects and solatium, viz. $600, and I, accordingly, recommend payment of this sum to the Estate of the late James Gardiner with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1671—MANUS NICKERSON

This claim arises out of the destruction of the United States fishing schooner *Muriel* by enemy action on August 3, 1918, off Seal Island, Shelburne County, Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, has been established as shown in previous decisions. The claimant, a Canadian, was a member of the crew, but on the voyage in question was not aboard the vessel because of illness. He had, however, left his personal effects aboard and these were lost when the ship went down. That his effects were aboard the vessel is proven by the evidence of the other members of the crew. Claim is now made for the loss of his personal effects. Having regard to the circumstances and applying the principles laid down in Opinion No. 3 I consider that claimant is entitled to the usual allowance for loss of personal effects, and I, accordingly, recommend payment to him of the sum of $250, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1680—MRS. MARY E. BROWN

This claim arises out of the destruction of the United States fishing schooner *Muriel* by enemy action on August 3, 1918, off Seal Island, Shelburne County, Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, has been established as shown in previous decisions. The claimant, as the widow of John L. Brown, a Canadian, who was a member of the crew, now makes claim for the loss of the personal effects of her husband and for his death, which it is alleged resulted from the shock and exposure to which he was subjected at the time of the loss. The presence of the late John L. Brown aboard the vessel is proven by the crew list furnished by the Mixed Claims Commission, corroborated by the statements of witnesses who were shipmates.

Claimant files her marriage certificate, from which it appears that she married John L. Brown on January 11, 1911. Deceased was a fisherman and earned about $75 per month. He died on January 17, 1928, aged 62, and it is alleged was never able to work from the time of the sinking of the vessel. It is in evidence that before the sinking of the vessel deceased had never been ill and had worked continuously. Claimant was compelled to work in a factory to provide means of subsistence for her husband and self, and latterly, owing to disability to work, has been maintained by charity. She expended her savings in the care of her sick husband.

It will be observed that the deceased died about ten years after the occurrence in question and the cause of death is stated to be myocarditis. Dr. McDonald, who examined the deceased very soon after the casualty, gives it as his opinion that his death probably resulted from the shock of the sinking. It is, of course, difficult to establish this fact with any definiteness, but I am satisfied that claimant's husband did, in fact, suffer injury by reason of the torpedoing of the vessel and that she has established sufficient connexity between the loss of the vessel and her husband's disability to entitle her to an award, on the basis of damage caused to her by the illness of her husband and time and money spent in caring for him. Having regard to all the circumstances, and applying the principles laid down in Opinions No. 2 and 3, I consider the claimant should receive the usual allowance for loss of personal

effects and solatium, viz. $600, and a further amount of $2,500 for the reasons above declared, with interest at the rate of 5 per cent per annum upon both sums, totalling $3,100, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 9, 1931.

United States Fishing Schooner "A. Piatt Andrews", Sunk August 20, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1639	Clyde Devine. (Note.—American naturalization March 4, 1929.)	Claims for effects and solatium	600 00	600 00
1709	Benjamin White. (NOTE.—See also claim put in by wife.)	Claims for effects, solatium, catch, etc.	750 00	600 00
1759	Ambrose LeBlanc	Claims for effects, solatium, catch, etc.	750 00	600 00
1760	Phillip Bona. (NOTE.—American naturalization Dec. 29, 1924.)	Claims for effects, solatium, catch, etc.	750 00	600 00
1762	Charles Hubbard	Claims for effects, solatium, catch, etc.	750 00	600 00
1763	Archie Hubbard	Claims for effects, solatium, catch, etc.	750 00	600 00
1764	Emil LeBlanc	Claims for effects, solatium, catch, etc.	750 00	600 00
1765	Raymond Amirault	Claims for effects, solatium, catch, etc.	750 00	600 00
1768	Walter Muise	Claims for effects, solatium, catch, etc.	750 00	600 00
1774	Benjamin Doucette	Claims for effects, solatium, catch, etc.	750 00	600 00
1775	Edgar Meuse	Claims for effects, solatium, catch, etc.	750 00	600 00
1777	Edmond Carter (or Edmund Doucet).	Claims for effects, solatium, catch, etc.	750 00	600 00
1780	Mrs. Elizabeth Muise	Mother of Simon Muise, dec'd. Claims for effects, solatium, catch, etc.	750 00	600 00
1781	James L. Doucette	Claims for effects, solatium, catch, etc.	750 00	600 00
1782	John LeBlanc (White)	Claims for effects solatium, catch, etc.	750 00	600 00
1783	John R. Muise	Claims for effects, solatium, catch, etc.	750 00	600 00
1808	Joseph A. Amirault	Claims for effects, solatium, expenses and personal suffering.	1,650 00	600 00
1809	Sylvian Amirault	Claims for effects solatium, catch, etc.	750 00	600 00
1830	Ambrose Doucette	Claims for effects, solatium, catch, etc.	750 00	600 00
1862	Robert L. Wilson	Claims for effects, solatium, catch, etc.	750 00	600 00
1907	Miss Sylvia Muise	Daughter of Isaiah Muise, dec'd. Claims for effects, solatium, catch, etc.	750 00	600 00

CASE 1639—CLYDE DEVINE
1759—AMBROSE LEBLANC
1760—PHILLIP BONA
1762—CHARLES HUBBARD
1763—ARCHIE HUBBARD
1764—EMIL LEBLANC
1765—RAYMOND AMIRAULT
1768—WALTER MUISE
1774—BENJAMIN DOUCETTE

CASE 1775—EDGAR MEUSE
1777—EDMUND CARTER
1781—JAMES L. DOUCETTE
1782—JOHN LEBLANC
1783—JOHN R. MUISE
1808—JOSEPH A. AMIRAULT
1809—SYLVIAN AMIRAULT
1830—AMBROSE DOUCETTE
1862—ROBERT L. WILSON

This group of claims arises out of the destruction of the United States fishing schooner *A. Piatt Andrews* by enemy action on August 20, 1918, off the coast of Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, has been established by report from the United States Mixed Claims Commission. The presence of these claimants, all Canadians, aboard the vessel as members of the crew is proven by the crew list furnished by the Mixed Claims Commission, corroborated by the statements of other witnesses. The claims, as presented, are for loss of personal effects, solatium and a share in the catch of fish aboard. The proof as to the amount of fish aboard and the value thereof is not definite. The mere statement of the men that there was about 80,000 pounds aboard at a value of about four cents a pound does not satisfactorily prove this point. Moreover, it has been ascertained from the Mixed Claims Commission that an award was made to owners for the value of the catch and which amount has been, or is, to be distributed to the members of the crew in their proper proportions.

I am unable therefore to allow the stated sum of $150 for loss of share in the catch. Two of the above claimants, Clyde Devine (1639) and Phillip Bona (1760) became citizens of the United States on March 4, 1929 (No. 111728) and December 29, 1924 (No. 1979623) respectively, and will be entitled to interest only until the time of their naturalizations.

Applying the principles stated in the various Opinions annexed to my report, and, in particular, having regard to Opinion No. 3, I consider that claimants are entitled to awards upon the same basis as other fishermen claimants. I, accordingly, recommend payment to them as follows:—

Case 1639—Clyde Devine	$ 600 00
1759—Ambrose LeBlanc	600 00
1760—Phillip Bona	600 00
1762—Charles Hubbard	600 00
1763—Archie Hubbard	600 00
1764—Emil LeBlanc	600 00
1765—Raymond Amirault	600 00
1768—Walter Muise	600 00
1774—Benjamin Doucette	600 00
1775—Edgar Meuse	600 00
1777—Edmund Carter	600 00
1781—James L. Doucette	600 00
1782—John LeBlanc	600 00
1783—John R. Muise	600 00
1808—Joseph A. Amirault	600 00
1809—Sylvian Amirault	600 00
1830—Ambrose Doucette	600 00
1862—Robert L. Wilson	600 00

The amounts so payable, for the reasons stated in Opinion No. 4, will bear interest at the rate of 5 per cent per annum, from January 10, 1920, to date of payment, with the exception of Cases No. 1639 and 1760, Clyde Devine and Phillip Bona, who will receive interest only to the dates of their respective naturalizations.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1709—BENNIE WHITE

This claim arises out of the destruction of the United States fishing schooner *A. Piatt Andrews* by enemy action on August 20, 1918, off the coast of Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, is established as shown in the preceding decision. The claimant, a Canadian, was aboard as a member of the crew, which fact is proven by his own testimony, by the certificate of the master of the vessel, and the evidence of other members of the crew. He makes claim for the loss of his personal effects, his share in the catch of fish aboard and an amount for estimated future catch. For reasons similar to those applying to other members of the crew in previous decisions, I do not consider claimant entitled to an award for the alleged share in the catch or for future catch.

After the claimant had been heard at Yarmouth, a claim was filed at Boston on behalf of his wife, claiming whatever amount might be awarded him. It appears that Bennie White deserted his wife many years ago, leaving her with three small children, and she has since obtained judgments against him in the United States courts. This commission cannot decide the rights of the parties *inter se*. The claimant, having appeared and made out a case, is entitled to receive the award, and any rights which his wife may have against him should be exercised in the proper form and in the usual course. For these reasons, the claim of the wife cannot be allowed as opposed to that of her husband.

Applying the principles declared in Opinion No. 3, I consider that claimant, Bennie White, is entitled to the usual allowance for loss of personal effects and solatium, and I, accordingly, recommend payment to him of the sum of $600 with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1780—ELIZABETH MUISE

This claim arises out of the destruction of the United States fishing schooner *A. Piatt Andrews* by enemy action on August 20, 1918, off the coast of Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, is established as shown in previous decisions. The claimant is the mother of Simon Muise, a Canadian (since deceased), who was aboard as a member of the crew, which fact is proven by the crew list and other members of the crew. She makes claim for the loss of her son's personal effects and solatium, $600, and the loss of his share of the catch, $150.

There is some confusion in the record as to the identity of the Simon Muise in question. Another claim has been made on behalf of the daughter of a Simon Muise, but it is now clear that there were two men of this name aboard the vessel, and that one of them was known as Isaiah Muise (see Case 1907). The confusion has arisen because of the similarity of name. The evidence establishes conclusively that the present claimant was the mother of the Simon Muise who was aboard the vessel and who subsequentiy lost his life fishing off the Gloucester coast.

For reasons similar to those applying to other members of the crew in previous decisions, I do not consider that deceased became entitled to an award for the alleged share in the catch.

I am of opinion that the claimant has established the loss of her son's personal effects and that his estate would also be entitled to the usual solatium payment. Under the law of Nova Scotia, as stated before me at the hearings in Yarmouth, in case a deceased leaves no will, the estate goes to the father and mother in toto or, if one is dead, to the other. It is proven that the father of the deceased is now dead. I would, therefore, recommend payment to the present claimant of the sum of $600, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1907—SYLVIA MUISE

This claim arises out of the destruction of the United States fishing schooner *A. Piatt Andrews*, by enemy action on August 20, 1918, off the coast of Nova Scotia.

The fact of the loss of the vessel, in the manner indicated, is established as shown in previous decisions. The claimant is the daughter of Isaiah Muise (sometimes known as Simon Muise), a Canadian, since deceased, who was aboard as a member of the crew, which fact is proven by the crew list and other members of the crew. She makes claim for the loss of her father's personal effects and solatium, $600, and the loss of his share of the catch, $150.

There is some confusion in the record as to the identity of the Isaiah or Simon Muise in question. Another claim has been made on behalf of the mother of a Simon Muise, but it is now clear that there were two men of this name aboard the vessel, and that one of them was known as Isaiah Muise (see Case No. 1780). The confusion has arisen because of the similarity of name. The evidence establishes conclusively that the present claimant was the daughter of the man known as Simon or Isaiah Muise who was aboard the vessel and who died at Wakefield, Mass., on February 24, 1928. The present claim was presented on behalf of Sylvia Muise by her cousin Henry Muise, in Boston, who spoke to the claim. It is of record that Sylvia Muise, the present claimant, is the sole heir at law of her father, who died intestate.

For reasons similar to those applying to other members of the crew in previous decisions, I do not consider that deceased became entitled to an award for the alleged share in the catch.

I am of opinion that the claimant has established the loss of her father's personal effects, and that his estate would also be entitled to the usual solatium payment. Applying the principles set forth in Opinion No. 3, I, accordingly, recommend payment to her of the sum of $600, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 12, 1931.

United States Fishing Schooner "Robert & Richard," Sunk July 22, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1708	Ernest Garron	Claims for effects, solatium, catch, etc.	950 00	600 00
1810	Toussaint Delong	Claims for effects, solatium, catch, etc.	950 00	600 00
1811	Joseph Doucette	Claims for effects, solatium, catch, etc.	950 00	600 00
1824	James E. McKenzie (NOTE.—American naturalization June 26th, 1922)	Claims for effects, solatium, catch, etc.	950 00	600 00
*1825	George E. Hubbard (NOTE.—American naturalization December 28th, 1921)	Claims for effects, solatium, catch, etc.	950 00	Disallowed
1826	Ralph E. Richie (NOTE.—American naturalization September 17th, 1920)	Claims for effects, solatium, catch, etc.	950 00	600 00
1827	Freeman Frelick	Claims for effects, solatium, catch, etc.	950 00	600
1828	Basil Doucette	Claims for effects, solatium, catch, etc.	950 00	600 0
1829	William Hall	Claims for effects, solatium, catch, etc.	950 00	600 0
1835	John A. Buchanan	Claims for effects, solatium, catch, etc.	950 00	600
1836	Albert White	Claims for effects, solatium, catch, etc.	950 00	600 0
1839	Alfred Martel (NOTE.—American naturalization March 19th, 1928)	Claims for effects, solatium, catch, etc.	950 00	600 0
1850	William LeBlanc	Claims for effects, solatium, catch, etc.	950 00	600 0

*NOTE.—Case 1825 received an award from the United States Mixed Claims Commission for loss of effects and share of catch.

CASE 1708—ERNEST GARRON
1810—TOUSSAINT DELONG
1811—JOSEPH DOUCETTE
1824—JAMES E. McKENZIE
1826—RALPH B. RICHIE
1827—FREEMAN FRELICK
1828—BASIL DOUCETTE
1829—WILLIAM HAIL
1835—JOHN A. BUCHANAN
1836—ALBERT WHITE
1839—ALFRED MARTEL
1850—WILLIAM LEBLANC

This group of claims arises out of the destruction of the United States fishing schooner "*Robert & Richard*", sunk by enemy submarine on July 22, 1918, off the south eastern coast of Maine near Cashe bank.

The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission, and awards have been made by that body to the owners of the vessel and American members of the crew.

The claimants are Canadian born. Three of them, however, later became American citizens—1824 James E. McKenzie, 1826 Ralph E. Richie, and 1839

Alfred Martel. The claimants appeared before the Commission at its sittings in Boston, Mass., on October 14, 1930, and presented claims for the loss of their personal effects. In the original statements of claim filed by them had also claimed for loss of time due to the break-up of the trip, and their share of the catch of fish aboard. At the hearing, however, the claims for shares in the catch were abandoned.

The claimants have established by their own testimony, and the statements of other members of the crew, that they were aboard the vessel and lost their personal effects.

Applying the principles stated in the various Opinions annexed to my report, and, in particular, having regard to Opinion No. 3, I consider the claimants entitled to awards upon the same basis as other fishermen claimants, I, accordingly, recommend payment to them as follows:

Case 1708—Ernest Garron	$600 00
1810—Toussaint Delong	600 00
1811—Joseph Doucette	600 00
1824—James E. McKenzie	600 00
1826—Ralph E. Richie	600 00
1827—Freeman Frelick	600 00
1828—Basil Doucette	600 00
1829—William Hall	600 00
1835—John A. Buchanan	600 00
1836—Albert White	600 00
1839—Alfred Martel	600 00
1850—William LeBlanc	600 00

The amounts so payable will bear interest at the rate of 5 per cent per annum from January 10, 1920, to date of payment, with the exception of cases 1824, James E. McKenzie (naturalized June 26, 1922), 1826 Ralph E. Richie (naturalized September 17, 1920) and 1839 Alfred Martel (naturalized March 19, 1928), in which cases interest is payable only to the date of their respective naturalizations.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, JANUARY 12, 1931.

CASE 1825—GEORGE EDGAR HUBBARD

This claim arises out of the destruction of the United States fishing schooner *Robert & Richard* sunk by enemy submarine on July 22, 1918, off the south eastern coast of Maine on Cashe bank. The fact of the loss of the vessel, in the manner indicated, is established as shown in the preceding decision.

The Claimant, originally a Canadian, became naturalized as a citizen of the United States on December 28, 1921. He appeared before the commission at its sittings in Boston, Mass., on October 14, 1930, and presented a claim for the loss of his personal effects, loss of time caused by the break up of the trip and a share of the catch of fish aboard the vessel. At the hearing it developed that the claimant had filed a claim with the United States Mixed Claims Commission in Washington, and had received an award from that body. There is no explanation in the record as to why this commission assumed jurisdiction, but in view of the award made, I do not consider that the claimant is entitled to receive a further award from this Commission, particularly as he is no longer a Canadian.

The claim is, accordingly, disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, JANUARY 12, 1931.

United States Fishing Schooner "Sylvania," Sunk August 21, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1643	Robert K. Devine	Claims for effects and solatium	600 00	600 00
1646	Mrs. Elizabeth Thomas. (NOTE.—American naturalization May 16th, 1921)	Widow of Frank Thomas. Claims for effects and solatium.	600 00	600 00
1779	Arthur L. Surette	Claims for effects and solatium	600 00	600 00
1785	Harry R. Fletcher. (NOTE.—American naturalization January 2nd, 1924)	Claims for effects and solatium	600 00	600 00
1818	Thomas Deveau	Claims for effects and solatium	600 00	600 00
1831	Thomas Delory (Deslauriers)	Claims for effects, solatium, catch, etc.	750 00	600 00
1832	Peter Burke	Claims for effects, solatium, catch, etc.	750 00	600 00
1833	George F. Muise	Claims for effects, solatium, catch, etc.	750 00	600 00
1834	Peter Doucette	Claims for effects, solatium, catch, etc.	750 00	600 00
1837	Mrs. Margaret Penny	Widow of Howard Penny. Claims for effects, solatium, catch, etc.	750 00	600 00
1838	Mrs. Mildred Doucette	Widow of Reuben Doucette. Claims for effects, solatium, catch, etc.	750 00	600 00
1841	Mrs. C. B. MacComiskey	Widow of Lindley L. MacComiskey. Claims for effects, solatium, catch, etc.	750 00	600 00
2270	Frederick Thomas	Claims for effects, solatium, catch, etc.	700 00	600 00
2271	Arthur Muise	Claims for effects, solatium, catch, etc.	700 00	600 00

CASE 1643—ROBERT K. DEVINE
1779—ARTHUR L. SURETTE
1785—HARRY R. FLETCHER
1818—THOMAS DEVEAU
1831—THOMAS DELORY (DESLAURIERS)
1832—PETER BURKE
1833—GEORGE F. MUISE
1834—PETER DOUCETTE
2270—FREDERICK THOMAS
2271—ARTHUR MUISE

This group of claims arises out of the destruction of the United States fishing schooner *Sylvania*, sunk by the enemy raider *Triumph* on August 21, 1918, on Quero fishing grounds.

The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission, and awards were made by that body to the owners of the vessel and American members of the crew.

The claimants are Canadian born. One of them, however, later became an American citizen—Case 1785, Harry R. Fletcher. The Claimants appeared before the commission and presented claims for the loss of their personal effects, and in some cases also claimed for a share in the catch, but it was afterwards ascertained that all the claimants had received settlement from the captain for their share in the catch. The claims are therefore merely for loss of personal effects. That the claimants were aboard is established by a list of the crew which was filed by the owners of the vessel.

Applying the principles stated in the various Opinions annexed to my report, and, in particular, having regard to Opinion No. 3, I consider the claimants entitled to awards upon the same basis as other fishermen claimants. I, accordingly, recommend payment to them as follows:—

Case 1643—Robert K. Devine	$600 00
1779—Arthur L. Surette	600 00
1785—Harry R. Fletcher	600 00
1818—Thomas Deveau	600 00
1831—Thomas Delory (Deslauriers)	600 00
1832—Peter Burke	600 00
1833—George F. Muise	600 00
1834—Peter Doucette	600 00
2270—Frederick Thomas	600 00
2271—Arthur Muise	600 00

The amounts so payable will bear interest, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment, with the exception of Case 1785, Harry R. Fletcher (naturalized January 2, 1924), in which case interest is payable only to the date of naturalization (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

CASE 1646—ELIZABETH W. THOMAS

This claim arises out o fthe destruction of the United States fishing schooner *Sylvania,* sunk by the enemy raider *Triumph* on August 21, 1918, on Quero fishing grounds.

The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission, and awards were made by that body to the owners of the vessel and American members of the crew.

Claimant is the widow of the late Frank Thomas, who died on November 16, 1925. The deceased was born in Nova Scotia, and was at the time of the loss a Canadian, but later took out naturalization papers in the United States and became a citizen of that country on May 16, 1921. He left surviving him the claimant and six children.

The claim is for loss of personal effects and solatium. No sum is claimed for the share of the deceased in the catch of fish aboard the vessel.

The evidence established that the late F. W. Thomas was aboard the vessel, as cook, when she was destroyed, and, in common with other members of the crew, lost his personal effects. Certificates have been produced proving the birth of seven children to Frank W. and Elizabeth Thomas, and the original nationality of the deceased and the claimant, as Canadians, is established. A claim was presented by deceased to the United States Mixed Claims Commission, but was declined on the ground that the claimant was a Canadian. While no marriage certificate has been produced by claimant, the evidence of record clearly establishes that claimant and deceased had been publicly living together as husband and wife for many years, and the relationship was acknowledged by him in his application for naturalization and is evidenced in the birth, baptismal and death certificates filed of record. No administration of the estate of the deceased was ever taken out, and I see no good reason to put these poor people to that expense. Under the laws of Massachusetts, as it was explained to me at the hearing, the widow would be entitled to one-half of the estate on intestacy, and in view of the comparatively small sum involved, I am disposed to make the entire award to the claimant herself.

For the reasons expressed in Opinion No. 3, I would, therefore, recommend payment to the claimant of the sum of $600, being the amount F. W. Thomas would have been entitled to receive for loss of personal effects and solatium, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to May 16, 1921, date the deceased became naturalized as an American citizen (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 7, 1931.

CASE 1837—MARGARET E. PENNY

This claim arises out of the destruction of the United States fishing schooner *Sylvania*, sunk by the enemy raider *Triumph*, on August 21, 1918, on Quero fishing grounds.

The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission and awards were made by that body to the owners of the vessel and to American members of the crew.

The claimant is the widow of the late Howard Penny who died December 17, 1919. He was born in Nova Scotia and was at the time of the loss and date of his death a Canadian. He left surviving him the claimant and three children.

The claim is for the loss of her husband's personal effects, loss of time and loss of catch, in all $750. She is still a Canadian.

The evidence establishes that the late Howard Penny was aboard the vessel when she was destroyed, and, in common with other members of the crew, lost his personal effects.

I cannot allow for the loss of catch inasmuch as from the evidence of the other members of the crew, this claim was settled by the captain, and Mrs. Penny admits having received her husband's share. Nor can I allow the claim for the loss of time (Opinion No. 3).

The deceased left no will. No administration of the estate of the deceased was ever taken out, and I see no good reason to put these poor people to that expense. Under the law of Massachusetts, as it was explained to me at the hearing, the widow would be entitled to one-half of the estate on intestacy, and in view of the comparatively small sum involved, I am disposed to make the entire award to the claimant herself.

For the reasons expressed in Opinion No. 3 I would, therefore, recommend payment to the claimant of the sum of $600, being the amount which the late Howard Penny would have been entitled to receive for loss of personal effects and solatium, with interest thereon at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

CASE 1838—MRS. MILDRED DOUCETTE

This claim arises out of the destruction of the American fishing schooner *Sylvania* sunk by the enemy raider *Triumph* on August 21, 1918, on Quero fishing grounds.

The fact of the loss of the vessel, in the manner indicated, is established by the report of the United States Mixed Claims Commission, and awards were made by that body to the owners of the vessel and American members of the crew.

Claimant is the widow of the late Reuben Doucette, who died on January 11, 1921. That the deceased was a member of the crew of the *Sylvania* is borne out by affidavits of other members of the crew and by their testimony. The name of the claimant's husband appears as a member of the crew on the list furnished by the owners of the vessel. Claimant has duly established her marriage to deceased, and that her husband was born in Nova Scotia and was still a Canadian at the time of his death.

Claimant appeared before the commission at its sittings in Boston, Mass., on December 8, 1930, and made claim for the loss of her husband's personal effects, loss of time, loss of catch, in all $750. She is still a Canadian. I cannot allow the claim for loss of catch, inasmuch as from the evidence of other members of the crew this claim was settled by the captain, and Mrs. Doucette admits having received her husband's share. Nor can I allow the claim for loss of time (Opinion No. 3).

The deceased left no will. No administration of the estate of the deceased was ever taken out, and I see no good reason to put these poor people to that expense. Under the law of Massachusetts, as it was explained to me at the hearing, the widow would be entitled to one-half of the estate on intestacy, and, in view of the comparatively small sum involved, I am disposed to make the entire award to the claimant herself.

For the reasons expressed in Opinion No. 3, I would, therefore, recommend payment to the claimant of the sum of $600, being the amount which the late Reuben Doucette would have been entitled to receive for loss of personal effects and solatium, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 14, 1931.

CASE 1841—CAROLYN B. MacCOMISKEY

This claim arises out of the destruction of the United States fishing schooner *Sylvania* sunk by the enemy raider *Triumph* on August 21, 1918, on Quero fishing grounds.

The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission and awards were made by that body to the owners of the vessel and to American members of the crew.

The claimant is the widow of the late Lindley MacComiskey who died on April 8, 1927. The deceased was born in Nova Scotia and was at the time of the loss and date of his death a Canadian. He left surviving him the claimant and three children.

The claim is for the loss of her husband's personal effects, loss of time and loss of catch, in all $750. She is still a Canadian. The evidence establishes that the late Lindley MacComiskey was aboard the vessel when she was destroyed, and, in common with other members of the crew, lost his personal effects.

Administration of the estate was taken out by the claimant who was named administratrix.

I cannot allow for the loss of catch inasmuch as from the evidence of the other members of the crew, this claim was settled by the Captain and Mrs. MacComiskey admits having received her husband's share. Nor can I allow the claim for the loss of time (Opinion No. 3).

For the reasons expressed in Opinion No. 3, I would, therefore, recommend payment to the claimant as administratrix, the sum of $600, being the amount which the late Lindley MacComiskey would have been entitled to receive for loss of personal effects and solatium, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

United States Sword Fishing Schooner "Cruiser", Sunk August 30, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1761	Lupean E. Spidell	Claims for effects, solatium, catch, etc.	850 00	600 00
1905	Simon Hawley	Claims for effects, solatium, catch, etc.	960 40	600 00
1906	Estate Jos. V. Langlois	Claims for effects, solatium, catch, etc.	600 00	600 00

CASE 1761—LUPEAN E. SPIDELL
1905—SIMON HAWLEY
1906—ESTATE JOS. V. LANGLOIS

This group of claims arises out of the destruction of the United States sword fishing schooner *Cruiser*, sunk by enemy action on August 30, 1918, on Georges fishing bank. The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission, which body has made an award to the owners of the vessel.

The claimant, L. E. Spidell, testifies that at four o'clock on August 10, 1918, the vessel was bombed by submarine, and the crew took to the dories and rowed to land, 168 miles distant, landing at Round Shoal Lightship, Nantucket. He lost his personal effects and claims also for his share in the catch of 58 to 68 sword fish which were aboard at the time, which he estimates at $250. He declares he is and was a Canadian at the time. Claimant, Simon Hawley, did not appear, being confined to hospital. Evidence has been made proving his Canadian nationality, and that he was aboard and lost his effects is proven by the evidence of claimant, L. E. Spidell.

At a later hearing L. E. Spidell again appeared, primarily in support of the claims of other shipmates. Questioned upon the share in the catch for which he made claim, he admitted that the owners of the vessel had received an award from the Mixed Claims Commission for a sum of $3,987.57, plus interest, four-fifths whereof to Bridget A. Barnwall and one-fifth to Wm. C. Tobey. He declared that no accounting of such award had been made to the sharesmen. I am of opinion, therefore, that insofar as this item is concerned, claimants must exercise such recourses as they may have to recover the amount of their shares from owners or whoever may be responsible therefor.

Applying the principles stated in Opinion No. 3, I consider the claimants, L. E. Spidell and Simon Hawley entitled to awards upon the same basis as other fishermen claimants. I, accordingly, recommend payment to them of $600 each, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

In the case of the Estate of Jos. V. Langlois, it is affirmatively established that Jos. V. Langlois was aboard as a member of the crew, that he lost his personal effects, and has since died on November 20, 1927. Copy of his marriage certificate is produced, from which it appears that he was married to Genevieve Ann Doyle on December 8, 1912. The claim is now presented by the widow. It is also proven that deceased was Canadian born, and remained a British subject till his death. In these circumstances, I consider that the Estate of deceased is entitled to an award upon the same basis as the other members of the crew. I, accordingly, recommend payment to the Estate of Joseph V. Langlois of $600, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

OTTAWA, January 7, 1931.

ERROL M. McDOUGALL,
Commissioner.

United States Sword Fishing Schooner "Progress," Sunk August 10, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1940	Mathurin Richard..... (Note: American naturalization	Claims for effects, solatium and catch. Sept. 28, 1920).	1,224 00	700 00
2269	Claude S. Wagner..... (Note: American naturalization	Claims for effects, solatium and catch. April 29, 1919).	1,224 00	600 00

CASE 1940—MATHURIN RICHARD
2269—CLAUDE S. WAGNER

These two claims arise out of the destruction of the United States sword fishing schooner *Progress*, sunk by enemy action on August 10, 1918, on Georges fishing bank. The fact of the loss of the vessel, in the manner indicated, is established by an award made by the United States Mixed Claims Commission to the owners of the vessel and to the Captain, and also by an affidavit of the captain setting out the circumstances of the loss and of the presence of the two claimants on board.

Both claimants were Canadians at the time of the destruction, and claim for loss of personal effects, break up of the trip and for a share of the catch. They subsequently became naturalized as American citizens, Case 1940, Mathurin Richard, on September 20, 1920, and Case 2269, Claude S. Wagner, on April 20, 1919.

The loss of personal effects is established by the affidavit of the Captain, who also states that the share of the catch was paid by the Mixed Claims Commission.

For the reasons expressed in Opinion No. 3, I cannot allow for that portion of the claims dealing with loss due to the break up of the trip.

Both claimants are entitled to recover for loss of personal effects and solatium, and applying the principles stated in Opinion No. 3, the scale award applicable to Mathurin Richard, who held the position of engineer on board, would amount to $700 and to Claude S. Wagner, a fisherman, $600. I would, accordingly, recommend payment to Mathurin Richard of the sum of $700, with interest thereon at 5 per cent per annum from January 10, 1920, to the date of his naturalization, and in the case of Claude S. Wagner the sum of $600 without interest.

OTTAWA, February 17, 1931.

ERROL M. McDOUGALL,
Commissioner.

United States Fishing Schooner "F. J. O'Hara," Sunk August 20, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ c s.	$ cts.
1667	E. J. D'Entremont	Claims for effects, loss of time and catch.	875 00	700 00

CASE 1667—E. J. D'ENTREMONT

This claim arises out of the destruction of the United States fishing schooner *Frances J. O'Hara* by enemy action on August 20, 1918, 55 miles off Canso, N.S.

The loss of the vessel, in the manner indicated, and the presence of the claimant aboard are established by report of the United States Mixed Claims Commission.

She was a schooner with auxiliary engines, and the claimant was employed aboard her as engineer. He was the only Canadian member of the crew. He claims the sum of $875 for loss of personal effects, share in the catch, and loss of time, and alleges that the American members of the crew received $150 as representing their share in the catch. The Mixed Claims Commission, however, advises that no award was made for the catch, the title to which was in the owners of the vessel. Nor can I allow claimant for loss of time. He is entitled, however, to recover for personal effects and solatium, and applying the principles stated in Opinion No. 3, the scale award in his case would amount to $700. I would, accordingly, recommend payment to the claimant of the sum of $700, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

United States Fishing Schooner "J. J. Flaherty," Sunk August 25, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1668	Thomas Thompson	Claims for effects, solatium, catch, etc.	1,048 00	600 00
1687	Stanley Mullins	Claims for effects, solatium, catch, etc.	1,048 00	600 00

CASE 1668—THOMAS THOMPSON
1687—STANLEY MULLINS

These two claims arise out of the destruction of the United States fishing schooner *J. J. Flaherty* sunk by enemy submarine on August 25, 1918, off Miquelon Island. The loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission and her loss has already been the subject of awards made to Canadian members of the crew (Cases 652 and 666). The presence of the claimants aboard the vessel is proven by the crew list furnished by the Mixed Claims Commission, corroborated by the statements of witnesses who were shipmates.

Claims are advanced for loss of personal effects and a share in the catch. According to the decision of the Mixed Claims Commission an award was made to the owners of the vessel for the loss of the outfits, fishing gear and cargo on board. The claimant must therefore look to the owners for their share of the catch.

Applying the principles stated in Opinion No. 3, I consider the claimants entitled to awards upon the same basis as other fishermen claimants. I, accordingly, recommend payment to the claimants of $600 each, with interest thereon at 5 per cent per annum, from January 10, 1920, to the date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 9, 1931.

United States Fishing Vessels "Rob Roy", Sunk August 3, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1619	Leander Williams	Claims for effects, solatium and expenses, and for suffering.	650 00 3,000 00	600 00
1642	Hyacinth Briant	Claims for effects, solatium and expenses, and for suffering.	650 00 3,000 00	600 00
1776	James Dort	Claims for effects and solatium	600 00	600 00
1784	Arthur J. Muise	Claims for effects and solatium	600 00	600 00
1786	Percy A. Adams (Note: American naturalization April 14th, 1930).	Claims for effects and solatium	600 00	600 00
1807	Winnie R. Goodwin	Claims for effects and solatium	600 00	600 00

CASE 1619—LEANDER WILLIAMS
1642—HYACINTH BRIANT

These two claims arise out of the destruction of the United States fishing schooner *Rob Roy* sunk by enemy action on August 3, 1918, fifty miles off Cape Sable. The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission and awards have been made to the owner of the vessel and American members of the crew. The claimants were born in Nova Scotia, and at the time of the loss were Canadians.

The claimants appeared before the commission at its sittings in Boston, Mass., and made claim for the loss of their personal effects and for expenses. The claim for expenses is already disposed of by the Mixed Claims Commission who made an award to the owners of the vessel for the loss of the outfits, fishing gear and cargo on board. They also made claim for damage resulting from personal injuries, but withdrew these items of the claim at the hearing. They have established by their own testimony and the statements of other members of the crew that they were aboard the vessel and lost their effects. Certified copies of newspaper items appearing at the time bear further evidence to the fact that they were members of the crew.

Applying the principles stated in Opinion No. 3, I consider the claimants entitled to awards upon the same basis as other fishermen claimants. I would, accordingly, recommend payment to them of the sum of $600 each, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to the date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 9, 1931.

CASE 1776—JAMES DORT
1784—ARTHUR J. MUISE
1786—PERCY A. ADAMS
1807—WINNIE R. GOODWIN

These four claims arise out of the destruction of the United States fishing schooner *Rob Roy* sunk by enemy action on August 3, 1918, fifty miles off Cape Sable. The fact of the loss of the vessel, in the manner indicated, is established as shown in the preceding decision. The claimants were born in Nova Scotia and at the time of the loss were Canadians. One of them, however, Case 1786, Percy A. Adams, became an American citizen on April 14, 1930.

The claimants appeared before the commission at its sittings in Boston, Mass., and made claim for loss of their personal effects. They have established by their own testimony and the statements of other members of the crew that they were aboard and lost their effects. Certified copies of newspaper items appearing at the time bear further evidence to the fact that they were members of the crew.

Applying the principles stated in Opinion No. 3, I consider the claimants entitled to awards upon the same basis as other fishermen claimants. I would, accordingly, recommend payment to them of the sum of $600 each, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to the date of payment (Opinion No. 4), with the exception of Case 1786, Percy A. Adams, (naturalized in United States April 14, 1930) in which case interest is payable only to date of naturalization (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 10, 1931.

United States Fishing Schooner "Katie Palmer", Sunk August 10, 1918

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1620	Louis N. Amirault..... (Note: American naturalization June 30th, 1924).	Claims for effects.....	241 75	600 00
1621	Mrs. Maria H. Nickerson.....	Widow of John H. Pierce. Claims for effects and solatium.	600 00	600 00
1627	Andrew St. Croix.....	Claims for effects.....	356 50	Disallowed.
1820	F. E. Belliveau.....	Claims for effects and solatium...	600 00	600 00

CASE 1620—LOUIS N. AMIRAULT
1820—F. E. BELLIVEAU

These two claims arise out of the destruction of the United States fishing schooner *Katie Palmer* by enemy action on August 10, 1918, on the Georges fishing bank, 141 miles southeast of Cape Cod. The fact of the loss of the vessel, in the manner indicated, is established by report of the United States Mixed Claims Commission.

The presence of the claimants aboard is proven by certificate of the master, supplemented by their testimony at the hearing The claimants were born in Nova Scotia and at the time of the loss were Canadians. Louis N. Amirault (Case 1620) became a naturalized American citizen on June 30, 1924.

The claimants appeared before the commission at its sittings in Boston and made claim for the loss of their personal effects and for solatium.

Applying the principles stated in Opinion No. 3, I consider the claimants entitled to awards upon the same basis as other fishermen claimants. I would, accordingly, recommend payment to them of the sum of $600 each, with interest thereon at the rate of 5 per cent per annum, from January 10, 1920, to the date of payment, with the exception of Case 1620, Louis N. Amirault (naturalized in United States June 30, 1924), in which case interest is payable only to the date of naturalization (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 7, 1931.

CASE 1621—MARIA A. NICKERSON

This claim arises out of the destruction of the United States fishing schooner *Katie Palmer* by enemy action on August 10, 1918, on the Georges Fishing Bank. The fact of the loss of the vessel, in the manner indicated, is established as shown in the preceding decision.

The claimant is the widow of the late John H. Pearce, a Canadian, who was a member of the crew and lost his personal effects. His presence aboard the vessel is established by the certificate of Captain Russell and his testimony in Case 1620, Louis N. Amirault. John H. Pearce died at Boston on February 19, 1920, leaving his widow and three minor children. Her marriage certificate has been produced. She has since remarried. There was no administration of the Estate of the late John H. Pearce, but I think I may, as in other cases, make the award for the full amount to the widow.

Applying the principles stated in Opinion No. 3, I consider the widow of deceased entitled to an award upon the same basis as other fishermen claimants. I, accordingly, recommend payment to her of the sum of $600 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920. to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commisisoner.

OTTAWA, January 7, 1931.

CASE 1627—ANDREW ST. CROIX

This claim ariees out of the destruction of the United States fishing schooner *Katie Palmer* by enemy action on August 10, 1918, on the Georges fishing bank. The loss of the vessel, in the manner indicated, is established as shown in previous decisions. The presence of the claimant aboard is proven by the certificate and testimony of the master, corroborated by the statements of other members of the crew. It developed at the hearing in Boston, on October 11, 1930, that the claimant at the time of the loss was and still is a citizen of Newfoundland. The claim made by him for loss of personal effects, together with transcription of the evidence taken has been forwarded to the Department of Justice in Newfoundland for attention.

For the reasons given in Opinion No. 1, I consider that this commission is without jurisdiction to entertain the claim. It must, therefore be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 7, 1931.

Canadian Sailing Vessel "Harry W. Adams," Sunk December 24, 1916

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1804	Mrs. Peter Carter.....	Widow of Moyle Sarty (Old Case 27). Claims for loss of life, for self.	5,000 00	1,800 00
		2 children.....	10,000 00	4,000 00

CASE 1804—MRS. PETER CARTER

This claim arises out of the destruction of the Canadian sailing vessel *Harry W. Adams* sunk by enemy action on December 4, 1916.

The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has already been the subject of awards made by the previous Commissioner (Cases 7 to 31).

The claimant is the widow of the late Moyle Sarty, who was cook aboard the vessel. An award for loss of personal effects and solatium was made in favour of the deceased by Commissioner Friel and payment made to the present claimant. She remarried in 1922 and now advances a claim, on her own behalf, and on behalf of her two minor children, issue of her marriage with deceased. She claims in all $15,000, $5,000 for herself and $5,000 for each of the children. Sarty survived the sinking of the vessel, but suffered severe exposure during heavy weather for several hours in the boats. He did not save his effects and was lightly clad at the time. It is established that he contracted a severe cold and was extremely ill on the way home aboard the steamer. He was taken directly to the St. John Marine Hospital where he died on February 4, 1917.

The evidence establishes, I consider, that Sarty died as a direct result of the illness contracted at the time of the loss of the vessel. He had been in good health previously and was only 26 years of age. After the loss and his illness, he never regained his health. His wife and children were wholly dependent upon him, and, following his death, she was compelled to work to support herself and her children.

For the reasons expressed in Opinion No. 2, I consider that the claimant should be compensated as a dependent during her period of widowhood, which was apparently five years. I would, accordingly, recommend payment to her of the sum of $1,800, and to the children (subject to payment being made to their legal guardian) the sum of $2,000 each, with interest upon the sums accorded, at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commisisoner.

OTTAWA, December 22, 1930.

Canadian Sailing Vessel "L. C. Tower," Sunk July 1, 1915

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1629	Capt. L. C. Tower	Claims for effects and solatium	900 00	900 00
1630	Estate of Joseph Donovan (mate)	Claims for effects and solatium	700 00	700 00
1631	A. E. Tower	Claims for effects and solatium	600 00	600 00
1632	Eldon Brown	Claims for effects and solatium	600 00	600 00
1633	Elmer Tower	Claims for effects and solatium	600 00	600 00
1634	Roland Green	Claims for effects and solatium	600 00	600 00
1635	Estate of George Morris	Claims for effects and solatium	600 00	600 00
1636	James Gree	Claims for effects and solatium	600 00	600 00
1637	Roland Lamb	Claims for effects and solatium	600 00	600 00

CASES 1629 TO 1637—CAPTAIN L. C. TOWER *ET AL*

This group of claims arises out of the destruction of the Canadian sailing vessel *L. C. Tower* by enemy action on July 1, 1915.

The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has already been the subject of an award by the previous commissioner (Case 51). The circumstance of the sinking is also related by evidence before me in the present case.

The claims are presented by the master of the vessel, Captain L. C. Tower, as well personally as on behalf of the members of the crew, for loss of personal effects. In the case of the master, claim is also made as part owner of the vessel to the extent of one-eighth.

The captain's claim as part owner of the vessel cannot be allowed. Whatever claim he may have should be directed to the Estate of the owner, which received an award for the value of the vessel.

As to the members of the crew, it is established that they were all Canadians and their presence aboard the vessel at the time of her destruction is also clearly proven.

Apart from a few insignificant articles saved, the master and crew lost all their personal effects when they were compelled to abandon their ship and take to the boats. Two of the members of the crew have since died, namely, Joseph Donovan, the mate, and George Morris. It is not established whether administration of their estates has been taken out and the awards in their cases must be to their respective estates.

Applying the principles stated in the various Opinions annexed to my report, and, in particular, having regard to Opinion No. 3, I consider that the master and crew are entitled to awards upon the same basis as fishermen claimants. I would, accordingly, recommend payment to them as follows:—

Capt. L. C. Tower (master)	$ 900 00
Estate late Jos. Donovan (mate)	700 00
Aaron E. Tower	600 00
Eldon Eaton Brown	600 00
Elmer Tower	600 00
James Gree	600 00
Estate George T. I. Morris	600 00
Roland Green	600 00
Roland Lamb	600 00

The amounts so payable, for the reasons stated in Opinion No. 4, will bear interest at the rate of 5 per cent per annum from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 2, 1931.

Canadian Sailing Vessel "Lillian H," Sunk January 19, 1917

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1682	Chas. E. Rector	Claims for effects	600 00	600 00
1939	Augustus Olsen	Claims for effects and solatium	600 00	600 00

CASE 1682—CHARLES E. RECTOR
1939—AUGUSTUS OLSEN

These two claims arise out of the destruction of the Canadian sailing vessel *Lillian H*, by enemy action on January 17, 1917, off Old Head of Kinsale.

The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of an award made by the previous commissioner (Case 51).

The claimants, both Canadians, were members of the crew and make claim for the loss of their personal effects and solatium. Their presence aboard is proven by letters from the owners and the fact that all personal effects were lost is established by the evidence of Charles E. Rector.

Applying the principles stated in Opinion No. 3, I consider that claimants are entitled to awards upon the same basis as fishermen claimants. I would, accordingly, recommend payment to each of them of $600, with interest thereon at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

Canadian Sailing Vessel "St. Olaf," Sunk August 19, 1915

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1679	Estate of Captain Arthur H. Wry	Claims for effects and solatium	900 00	900 00

CASE 1679—ESTATE OF CAPTAIN ARTHUR H. WRY

This claim arises out of the destruction of the Canadian sailing vessel *St. Olaf* by enemy action on August 19, 1915, off the coast of Ireland.

The fact of the loss of the vessel, in the manner indicated, is established by awards of the previous commissioner (Cases Nos. 352 to 361).

Claim has been presented by Mrs. Annie Cole and Mrs. Lois Atkinson, in their quality of executrices under the last Will and Testament of the late Captain Arthur H. Wry, dated May 14, 1915, and duly probated in the Probate Court of the County of Westmoreland, New Brunswick, on December 14, 1917.

These claimants assert a claim for $900 for loss of personal effects and solatium of the late Captain Arthur H. Wry, who was sailing master aboard the *St. Olaf* at the time of her loss. Another claim has been made by Mrs. Arthur Wry, widow, on the same ground. Both claimants were given notice of the hearing of the case at Moncton, N.B., on October 6, 1930, and in the case of Mrs. Wry, opportunity was afforded her to appear before the commissioner at hearings held in Boston, Massachusetts. Mrs. Wry did not appear. The other claimants were heard at Moncton, N.B.

The name of Captain Arthur H. Wry was omitted from the list of those aboard the vessel at the time. It has now been established, however, by the evidence of Captain Burnham Tower, that Captain Wry was aboard at the time as sailing master for the reason that Captain Tower did not possess a deep sea certificate and the navigation of the vessel was entrusted to Captain Wry for deep sea sailing. He would rank as a master.

Captain Wry escaped from the vessel in the boat with the other members of the crew and lost all his personal effects.

He died subsequently, leaving a last Will and Testament, under the terms whereof he appointed as his Executrices, the claimants Annie Cole and Lois Atkinson. It is in evidence that these ladies assumed the office and have since carried on the administration of the estate.

In this state of the record, I am compelled to disregard the claim of the widow and to recommend that the award be payable to the duly appointed executrices, Annie Cole and Lois Atkinson, to be dealt with as to law may appertain.

Captain Wry was, and remained until his death, a Canadian.

Applying the principles stated in Opinion No. 3, I am of opinion that the estate of Captain Arthur H. Wry is entitled to an award upon the same basis as other masters of sailing vessels. I would, accordingly, recommend payment to his estate of the sum of $900, with interest thereon, at the rate of 5 per cent per annum from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 21, 1930.

Canadian Sailing Vessel "Coral Leaf," Sunk July 7, 1917

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
343	J. F. Whitney & Co. and Mrs. J. F. Clark.	American shareholders in vessel, asking for 18/64th share of award, disallowed in previous report.	4,749 84	Disallowed
1789	L. Limkilde	Claims for effects	248 00	Disallowed

CASE 343—J. F. WHITNEY & CO. AND MRS. J. F. CLARKE

These two claims were filed with and disposed of by the previous Commissioner.

Claim had been made for the value of the Canadian sailing vessel *Coral Leaf* destroyed by enemy action on July 9, 1917, off the Northwest coast of Ireland. The managing owner of the vessel, Johnson Spicer, by whom claim was filed, died, and the claim was presented in his behalf by his Executors. An award was made in the sum of $16,888.57, equivalent to $263.88 per share. The present claimants, as appears from the list of shareholders filed in the record, were the owners of 15 shares and 3 shares respectively.

J. F. Whitney & Co. is an American company and Mrs. J. F. Clark, although originally a Canadian, became an American citizen by reason of her marriage to an American in the year 1913. Having regard to these facts as affecting the present claimants, the previous award contains the following finding: "Thoe loss of American owners does not come within the scope of this Commission, and I cannot allow the American shareholders anything. Their claim goes to their own Government."

This definitely disposes of the claims now submitted, and for the reasons explained in Opinion No. 1, I have no jurisdiction now to entertain them. My authority is clearly limited to claims not dealt with by the previous commissioners.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CASE 1789—L. LIMKILDE

This claim arises out of the destruction of the Canadian sailing vessel *Coral Leaf* by enemy action on July 9, 1917, off the Northwest Coast of Ireland.

The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of awards made by the previous commissioner (Case 343-351).

The presence on board of the claimant is established by a certificate from the shipping master and the claimant's own declaration clearly shows the loss of his personal effects.

The claimant, who was born at Odenso in Denmark on November 10, 1893, came to Canada to reside in April, 1915, but never became naturalized as a British subject.

For the reasons explained in Opinion No. 1, I have no jurisdiction. The claim is therefore disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 17, 1931.

Canadian Sailing Vessel "Laura," Sunk April 25, 1917

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1686	William Keeping.....	Claims for effects, cash and wages.	740 00	600 00

CASE 1686—WILLIAM KEEPING

This claim arises out of the destruction of the Canadian sailing vessel *Laura* by enemy action on April 25, 1917, off Fastnett island, Ireland. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of awards made by the previous commissioner (Cases 52 to 55).

The claimant was a member of the crew and makes claim for the loss of his personal effects, valued at $300, cash $200 and loss of wages $240, a total of $740. His presence aboard is proven by corroborative statements from the master and mate of the vessel.

There is a suggestion that claimant may not be a Canadian citizen. I find, however, that while he was born in Newfoundland he came to Canada in 1911 with the intention of taking up permanent residence here and that he has, infact, since that time made his home in Canada, where he was married and now has eight children. In these circumstances, I consider that this Commission has undoubted jurisdiction to deal with his case (Opinion No. 1).

Applying the principles stated in Opinion No. 3, I consider claimant entitled to an award upon the same basis as fishermen claimants. I would, accordingly, recommend payment to William Keeping of the sum of $600, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 5, 1930.

Canadian Sailing Vessel "Bessie A. Crooks," Missing Since February, 1916

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1695	Mrs. Jessie A. Crooks	Claims for loss of husband, Seth Crooks, and loss of effects	5,000 00	3,000 00
1857	F. K. Warren	Managing owner. Claims on behalf of shareholders for loss of vessel.	335 00 30,320 00	335 00 26,744 70
1908	Estate of Mrs. F. L. Walley	Claims for loss of husband, F. L. Walley, captain of vessel, and loss of effects	9,000 00 500 00	Disallowed 500 00
1909	Mrs. A. K. Hartling	Claims for loss of husband, A. K. Hartling, and loss of effects	6,000 00 265 00	3,250 00
1968	Mrs. L. Rodenhiser	Claims for loss of father, Seth Crooks.	2,000 00	Disallowed

CASE 1695—MRS. JESSIE A. CROOKS

This claim arises out of the loss of the sailing schooner *Bessie A. Crooks* which sailed from Pernambuco, Brazil, for Barbadoes on January 26, 1917, and was lost with her entire crew, she was never heard of thereafter.

The claimant is the widow of Seth Crooks who sailed aboard the vessel as mate. His presence aboard is established by owners, who are also claimants for the value of the vessel (Case 1857).

Claimant was dependent upon her husband and received one-half of his wages, which were $75 per month at the time of the loss. She was left with one child, now thirty years of age, and has had to work by the day since the death of her husband, in order to live.

The difficulty in this case is that there is no specific evidence that the loss of the vessel was due to enemy action. In fact the Admiralty reports ascribe the loss to maritime perils, in the absence of precise information. This feature of the case is fully discussed in Case 1857 *infra* and, for the reasons there expressed, I am of opinion that it is a fair inference that the vessel was destroyed by enemy raiders operating in the vicinity of St. Paul's Rocks.

I conclude, therefore, that claimant's husband lost his life as the result of enemy action and that she is entitled to recover. Her claim is stated at the sum of $5,000 for the loss of her husband, but at the hearing in Halifax she declared that a payment of $3,000 would be satisfactory. Claim is also made for loss of personal effects.

Applying the principles expressed in Opinions Nos. 2 and 3, I consider that claimant is entitled to the sum mentioned for the loss of her husband and to a sum of $335.00 for loss of personal effects. I would, accordingly, recommend payment to claimant of $3,335 with interest at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, DECEMBER 21, 1930.

CASE 1857—F. K. WARREN

This claim arises out of the loss of the three masted sailing schooner *Bessie A. Crooks* which sailed from the port of Pernambuco, Brazil, on January 26, 1917, bound for Barbadoes. She was never heard from thereafter, and was lost with her entire crew, three members whereof were Canadians, viz: the master, Captain F. L. Walley, the mate, Seth Crooks, and the boatswain, Kenneth Hartling.

The *Bessie A. Crooks*, 198·62 net tons, was built at Liverpool, N.S., in 1913, at which port she was originally registered. Her registry was subsequently transferred to Bridgetown, Barbadoes, on November 24, 1913.

The claimant herein is the managing owner, and represents the various shareholders who were as follows, as appears from certificate of registry:—

	Shares
Arthur Crooks	14
Jas. Hemlaw, Jr.	14
Wm. J. Murdock	14
Lambert Douglas Denmore	8
Alexander Fisher Cameron	4
John Sangster More	4
Frank K. Warren (claimant)	6
	64

The foregoing shareholders are all Canadians.

Endorsed upon the back of the certificate the folowing entry appears: "Registry closed March 26, 1918. Vessel missing since leaving Pernambuco January 28, 1917. Certificate with vessel. Advice received from Frank K. Warren, managing owner—T. Harrison, Registrar."

Claim is now made for the value of the vessel, which is stated at the sum of $40,121.24 (as amended at the hearing), which works out at $202 per net ton. Marine insurance in the amount of $10,000 was received by owners, leaving a net balance claimed of $30,121.24. A suggested addition for stores, provisions and war risk premiums paid was not pressed and need not be considered.

The ground of recovery is based upon the destruction of the vessel by enemy action. No direct evidence is available, and I am asked to draw the inference that she was so lost upon deductions drawn from the circumstances of her disappearance. These may be summarized briefly as follows:—

1. The area within which the *Bessie A. Crooks* would find herself on a voyage from Pernambuco to Brazil was known to be the seat of operations of enemy raiders. To establish this point claimant produces a letter from the British Admiralty, dated October 29, 1930, in which it is stated that she (the *Bessie A. Crooks*) "can be said to have sailed in waters where German raiders were operating, but no 'surface' raider was sunk by one of H.M. ships at the time in question or later." It is also shown that on January 28, 1917, two days after the *Bessie A. Crooks* sailed, the Canadian schooner *Perce* from Liverpool to Santos, Brazil, in the same waters, was captured and destroyed by the German raider *See Adler* 150 miles Northeast of St. Paul's rock (see decision 672). Letter from the mate of this vessel is produced. He was a prisoner aboard the enemy raider, and relates that he was told by those aboard that another German raider was operating west of St. Paul's rock. Further circumstantial evidence is presented in a letter from Mrs. Leonard Rodenheiser, a daughter of the mate of the *Bessie A. Crooks* declaring that she remembers seeing a letter from her father to her mother (which has since been lost) in which he stated that they had sighted a submarine going into Pernambuco, but had arrived safely. This letter was dated January 3, 1917, and its contents are confirmed by Mrs. Crooks in her testimony in her own case (Case 1695).

2. By a process of deductive reasoning it is asserted that the vessel could not have been lost in any other manner than by enemy action. In substantiation of this theory it is pointed out that the vessel was comparatively new (built in 1913), was fully manned, equipped and supplied, and in charge of a competent master. The waters through which she was sailing are known as a zone of fine weather, and no storms are reported as having occurred on the material dates. If she had been lost as the result of a marine peril, wreckage would have been discovered, and it is a reasonable assumption that her crew could have made shore. Her course on the voyage from Pernambuco to Barbadoes would take the *Bessie A. Crooks* to the westward of St. Paul's rock, and while it has been shown that the *See Adler* was operating to the east thereof, it may be assumed that another raider was patrolling the westerly waters. The suggestion is made that this raider may have been the *Kron Prinz Wilhelm* which is shown to have been in the vicinity in 1915. The suggestion though very slight lends some colour to the picture adumbrated by claimant.

This then is claimant's case in respect to the loss of the vessel. After very careful consideration, I have reached the conclusion that the *Bessie A. Crooks* was destroyed by enemy action. I consider that the evidence justifies me in drawing such an inference.

To establish the value of the vessel, claimant has testified as to the sale value of similar vessel, and has reported sales made at or about the time of the loss in question. Thus it is shown that the *Gwendolen Warren* 272 net tons, was sold in January or February 1917 on a basis of $202 per net ton; the *Herbert Warren*, 270 net tons, in July 1917 on a basis of $222 per net ton; the *Maid of Harloch* 270 net tons, in 1917 on a basis of $203 per net ton. All these vessels were Nova Scotia built, and were more or less as to age and build similar to the *Bessie A. Crooks*. It may not be a fair method of computation to compare the *Bessie A. Crooks* with fishing schooners, and to endeavour to arrive at her value upon such comparison. Unfortunately, however, in these cases I do not have the benefit of an opposing party presenting a view contrary to that of a claimant. His case, as far as I am concerned, is *ex parte*, and, unless I accept unreservedly claimant's valuation, I am compelled to seek elsewhere for information to enable me to reach conclusions. If the awards of the previous Commissioner be examined, it will be found that for fishing vessels destroyed about the same time he allowed a per net ton value considerably less than that now claimed for the *Bessie A. Crooks*. Thus in the case of the *Lillian H* sunk in January 1917, the valuation is $165 per ton; the *Gloaming* sunk in 1917 receives $183 per ton; the *Potentate* is valued at $183.80, and the *Lucille M. Schnare* destroyed in 1917 is placed at $183.33 per ton.

On the whole, therefore, having regard to the age, construction and condition of the *Bessie A. Crooks*, I would be disposed to allow a valuation of $185 per net ton. On her stated tonnage of 198·62 net tons, this would yield a figure of $36,744.70, as against which there is to be deducted $10,000 received for marine insurance.

I would, accordingly, recommend payment to the claimant, Frank K. Warren, in trust for the various shareholders of the vessel, of the sum of $26,744.70, with interest thereon at the rate of 5 per cent per annum from January 31, 1917, (estimated date of destruction) to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1908—ESTATE MRS. F. H. WALLEY

This claim arises out of the loss of the sailing schooner *Bessie A. Crooks* which sailed from Pernambuco, Brazil, for Barbadoes, on January 26, 1917, and was lost with her entire crew. She was never heard from thereafter.

The claimant is the executor, duly named under the Will of the late Frances H. Walley, widow of the master of the *Bessie A. Crooks,* who is presumed to have lost his life when the vessel disappeared. Mrs. Walley died on October 26, 1927, at Regina, Saskatchewan, where she had been residing with her son, Percy B. Walley, the present claimant on behalf of his mother's estate. Claim is made for $9,000 for the loss of husband's life, and $600 for personal effects.

That Captain F. L. Walley sailed aboard the vessel, as master, is proven by owners, who are also claimants for the loss of the vessel (Case 1857). For the reasons fully explained in the case referred to, I am of opinion that the *Bessie A. Crooks* was, in fact, destroyed by enemy action, and that Captain F. L. Walley lost his life when she went down.

There is nothing in the record establishing dependency outside the mere statement that the late Mrs. Walley was dependent upon her husband. As more fully explained in Opinion No. 2, it is not the value of the life lost which must be determined, but the loss sustained by those who were dependent upon the deceased. While Mrs. Walley was presumably dependent upon the deceased, it cannot be said that her estate is in the same position. I know of no principle of law which would give to deceased's estate a claim for dependency which was personal to herself. Furthermore, under the relevant sections of the Treaty of Versailles, "surviving dependents" are alone entitled to claim.

In these circumstances, and having regard to the principles stated in Opinion No. 2, I do not consider that the estate of Mrs. Walley is entitled to an award.

As to the claim for loss of personal effects the amount claimed, $500, falls within the scale allowances referred to in Opinion No. 3. I would, accordingly, recommend payment to the estate of the late F. L. Walley of the sum of $500 with interest thereon, at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1909—MRS. ARTHUR K. HARTLING

This claim arises out of the loss of the sailing schooner *Bessie A. Crooks* which sailed from Pernambuco, Brazil, for Barbadoes, on January 26, 1917, and was lost with her entire crew. She was never heard from thereafter.

The claimant is the widow of Arthur Kenneth Hartling, who sailed aboard the vessel as boatswain. His presence aboard is established by owners, who are also claimants for the value of the vessel (Case 1857). Claimant was married to her husband, a Canadian, at Wainwright, Alberta, on October 30, 1915, as appears from marriage certificate filed of record. Claimant was dependent upon her husband, who was earning at the time of his death $60 per month. After he disappeared she resided with her father-in-law when not working, and is now in training as a nurse. There were no children born of the marriage. She claims the sum of $6,000 for her husband's death, and an amount of $265 for loss of personal effects. Deceased left no Will, nor has administration of his estate been taken out.

For the reasons fully explained in the decision of Case 1857, I am of the opinion that the loss of the *Bessie A. Crooks* is attributable to enemy action, and claimant is, therefore, entitled to an award. Having regard to all the circum-

stances, and applying the principles declared in Opinion No. 2, I would recommend payment to claimant of the sum of $3,000 for the loss of her husband, and the further sum of $250 for loss of personal effects (Opinion No. 3), making a total sum of $3,250 with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1968—GRACE DARLING RHODENIZER

This claim arises out of the loss of the sailing schooner *Bessie A. Crooks* which sailed from Pernambuco, Brazil, for Barbadoes on January 26, 1917, and was lost with her entire crew. She was never heard from thereafter.

The claimant is a daughter of the late Seth Crooks who sailed aboard the vessel as mate. His presence is established by the owners who are also claimants for the value of the vessel (Case 1857).

Claimant alleges that on April 25, 1915, she was 15 years of age, and was married to her present husband on May 8th in the same year. She further declares that she continued to live with her parents and was dependent upon her father for home and maintenance, and an agreement to this effect is referred to very vaguely in her statement. She claims on the ground of dependency a sum of $2,000 for the loss of her father.

For the reasons fully set forth in the decision of Case 1857, I am of the opinion that the loss of the *Bessie A. Crooks* is attributable to enemy action. The claimant's father was aboard the vessel at the time she disappeared, and had the claimant been able to establish dependency she would be entitled to an award. I find the statements appearing in her declaration far from convincing, and as she has not appeared before the Commission and submitted to cross examination as to the circumstances under which she was living at the time of her father's death, almost two years after her marriage, I do not consider that she is entitled to an award. I would, therefore, disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

Canadian Sailing Vessel "Gypsum Queen," Sunk July 31, 1915

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1684	Capt. Freeman Hatfield	Claims as owner for loss of vessel and freight.	99,000 00	40,000 00
1755	A. D. Welsh	Claims for effects and solatium	900 00	
1806	A. Allison	Claims for effects and wages	1,100 00	500 00
		Claims for effects and solatium	Amount not stated	500 00

CASE 1684—FREEMAN HATFIELD

This claim arises out of the destruction of the three masted Canadian sailing vessel *Gypsum Queen*, alleged to have been torpedoed and sunk by the enemy on July 31, 1915, when about sixty miles off the coast of Ireland.

The claimant, Captain Freeman Hatfield, a Canadian, makes claim as to the owner of the vessel for her loss, loss of freight money and the usual sum

for loss of personal effects and solatium. The evidence discloses that the *Gypsum Queen* was struck by a torpedo in the morning of July 31, 1915. The effect of the impact was to throw her over on her side and she filled rapidly. The foremast had gone over the side and the main top mast went with it. The mizzenmast was broken off and was hanging by the rigging on the mainmast. The jibboom and everything attached to it were knocked out and only the mainmast was left standing. All the sails except the main sail went overboard. The vessel carried a full cargo of lumber and immediately following the torpedoing parts of the deck load were jettisoned to save the vessel from turning over. It was impossible to save the ship and she was abandoned, the crew being taken aboard the British steamer *Cymric* and landed in Liverpool.

The Admiralty records do not contain the name of the *Gypsum Queen* as having been torpedoed, in fact the only reports received infer that she was lost due to marine perils. The evidence adduced before me, however, establishes clearly that the vessel was destroyed in the manner indicated. The statement of the master is corroborated by the testimony of A. D. Welsh (Case 1755) and Alexander Allison (Case 1806) and there have been filed of record affidavits to the same effect by the remaining members of the crew who were not Canadians. I conclude, therefore, on this branch of the case that claimant has successfully established the loss of his vessel by direct enemy action.

In these circumstances I am now required to assess the damage sustained by claimant as the result of the loss of his vessel. The *Gypsum Queen* was a three masted ship, two decks, built of spruce and hardwood in April, 1891, and reclassed in October, 1911. She was registered at Parrsboro', N.S., on April 25th, 1891, and the certificate furnished by the Shipping Master at that port indicates a clear title in the present claimant, at the time of her loss. Her gross tonnage is shown as 652·22 and net tonnage at 609·42.

She sailed from Halifax on or about July 11, 1915, laden with a cargo of 650,000 feet of deals, bound for Preston, England. She was in command of her owner, Captain Freeman Hatfield. The only evidence as to her condition at that time is furnished by claimant and members of the crew, who declare she was in good condition. Captain Hatfield tells us that he acquired the vessel in exchange for another vessel owned by him, the *Miriam*, for which he had paid the sum of $4,000. He gave a further sum of $4,000 for the *Gypsum Queen*, so that his total outlay was $8,000. This was in 1906. Subsequently claimant spent a sum of $2,800 upon her in repairs. He carried no insurance on his vessel as he found the rates too high and had been a self insurer for many years. As to the freight, we are told that the contract price was 120 shillings per thousand feet, and upon this basis he figures out a loss of $19,500, in respect of which he received only the sum of $1,800 by way of advance freight. At the hearing he further amended his claim to include $900 for loss of personal effects and solatium.

He claims for the loss of the vessel on the basis of $165 per net ton. On the question of valuation there is nothing in the record but the unsupported statement of the claimant. No corroboration of any kind has been furnished either documentary or otherwise. It has been urged that by comparison with other vessels, such as the *L. C. Tower* and the *Lillian H* (Case 51) in which awards were made by Commissioner Friel, that I should be able to make a similar award. It is even contended that the *Gypsum Queen* was a superior vessel to either of the two mentioned. This, it will be realized, is not very satisfactory evidence as to value, and in this state of the record I do not think it possible to establish a per ton value or to obtain any definite figures upon which to formulate an award. The value of tonnage increased enormously during the war period, but bearing in mind that the vessel was old, that she had cost only $8,000, had been repaired to the extent of $2,800, and that claimant was so unwise as to carry no insurance, I consider that I am dealing

generously with claimant when I recommend a payment to him of a total sum of $40,000 to cover the loss of the vessel and loss of freight, including also award for personal effects and solatium, with interest upon this sum, at the rate of 5 per cent per annum from July 31, 1915, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 8, 1931.

CASE 1755—AINSLEY D. WELSH
1806—ALEXANDER ALLISON

These two claims arise out of the destruction of the 3-masted Canadian sailing vessel *Gypsum Queen*, alleged to have been torpedoed and sunk by the enemy on July 31, 1915, when about 60 miles off the coast of Ireland. The fact of the loss of the vessel due to enemy action is established as shown in the preceding decision, and the presence of the claimants, both Canadians, aboard, is proven by their own testimony and the statement of the master, heard in Case 1684.

Applying the principles stated in Opinion No. 3, I cannot allow the claim advanced by claimants for loss of wages, but I consider that they are entitled to awards upon the usual basis for loss of effects and solatium. I would, accordingly, recommend payment to the claimants of $500 each, with interest thereon, at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 10, 1931.

Canadian Sailing Vessel "Minas Queen," Sunk August 26, 1917

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1750	Estate of George Kay.....	Claims on behalf of widow (also deceased) for loss of husband's life.	4,000 00	
		Loss of effects.....	700 00	350 00

CASE 1750—ESTATE OF GEORGE KAY

This claim arises out of the destruction of the sailing vessel *Minas Queen* by enemy action on August 26, 1917. The fact of the loss of the vessel, in the manner indicated, is established by the findings of the previous Commissioner in Case 679.

Claim is presented on behalf of the Estate of the late Mrs. George Kay, by Chipman Taylor, Esq., of Parrsboro, N.S., and, as amended at the hearing has been restricted to the loss of effects of the late George Kay, a Canadian, who was mate aboard the *Minas Queen* and lost his life at the time the vessel was destroyed. The widow of the deceased survived her husband until January, 1921. The present claim is supplementary to claim presented to the previous Commissioner in which an award of $2,000 to each of the minor

children of the deceased was made and paid over to the duly appointed guardian of such children, Mr. Chipman Taylor (Case 679). It does not appear that any demand was made for loss of personal effects at that time, and I consider that I am now authorized to deal with the present applications upon that basis only.

There appears in the record a suggestion that the late George Kay had been married previously and that there are two children issue of that marriage still living. A claim has recently been filed on their behalf and will be dealt with later.

In respect of the supplementary claim now presented by Mr. Chipman Taylor, I am inclined to allow it, but to the extent of loss of personal effects only. Any claim for solatium such as is usually awarded in these cases, would not survive the deceased. For the reasons indicated in Opinion No. 3, I would, accordingly, recommend payment to the Estate of the late George Kay of the sum of $350 for loss of personal effects with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4). In this connection, in view of the small amount of the award and the expense which would result from obtaining administration of his Estate, I would recommend that the payment be made to Mr. Chipman Taylor for the benefit of the estate. Mr. Taylor has filed of record an undertaking to receive and administer any amount awarded for the benefit of the minor children of the deceased, whom I understand would be his heirs at law.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 28, 1930.

Newfoundland Sailing Vessel "Roma", Sunk August 26, 1917

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
*1796	Mrs. Minnie Lowrie.....	Widow of Captain Thomas Lowrie. Claims for effects and loss of time.	1,298 65	900 00

CASE 1796—MRS. MINNIE LOWRIE

This claim arises out of the destruction of the Newfoundland sailing vessel *Roma*, sunk by enemy action on November 30, 1916, in the Mediterranean. The fact of the loss of the vessel, in the manner indicated, is established by the production of certified copies of a report appearing in a newspaper *The News* of St. John's Newfoundland, and of a letter written by the late captain to the claimant, dated December 12, 1916. His presence on board and the circumstances of the loss are also established by the above newspaper report and letter.

Claim is made by Mrs. Minnie Lowrie, a Canadian, widow of the late Captain Thomas Lowrie, also a Canadian. She alleges that her late husband was the captain of the vessel, and lost his personal effects to the value of $673.65, and also claims for loss of his time $625. Captain Lowrie died in Charlottetown on October 13, 1926, leaving surviving him the claimant and three children, all above the age of twenty-one years. No administration of

his estate was taken out, as there was no estate to administer. Claimant is old and infirm, and I feel that any award made should be paid to her personally rather than to the estate of deceased.

For the reasons set out in Opinion No. 3, I cannot allow the claim for loss of time, but I am disposed to recommend an allowance for personal effects and solatium upon the usual basis. I would, accordingly, recommend payment to claimant of the sum of $900, with interest thereon, at the rate of 5 per cent per annum from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 17, 1931.

CLASS "B"

Losses Arising out of the Destruction of Merchant Shipping

52 CASES

LOSSES ARISING OUT OF THE DESTRUCTION OF MERCHANT SHIPPING

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1186	T. G. Hunter	Horseman on SS. *Anglo Columbian*, sunk Sept. 23, 1915. Claims for loss of effects.	278 00	500 00
1190	Mrs. Agnes Reid	Claims for loss of son's life, seaman on SS. *Stuart Prince*, sunk March 22, 1917.	2,000 00	2,000 00
1192	J. Hayward	Also for effects	Unstated	250 00
		Seaman on SS. *Antony*, sunk March 17, 1917.	Unstated	Disallowed.
		Claims for effects	Unstated	Accepted and paid by Great Britain.
1194	Mrs. M. Alexander	Claims for loss of son, steward on SS. *California*, sunk Feb. 7, 1917. Loss of life.	Unstated	2,500 00
		Loss of effects	Unstated	250 00
1195	Michael Carew	Seaman on SS. *Stephano*, sunk Oct. 8, 1916. Claims for effects.	Unstated	Disallowed. Referred to Newfoundland for action.
1197	T. J. Boulton	Purser on SS. *Mount Temple*, sunk Oct. 6, 1916. Claims for internment.	Unstated	Disallowed.
		Loss of effects	Unstated.	
1207	Mrs. Annie Martin	Claims for loss of husband, Capt. of SS. *Opal*, sunk Dec. 18, 1916. Claimant came to Canada May 1920.	10,000 00	Disallowed.
1417	Philip Campbell	Fireman on SS. *Georgic*, sunk Dec. 10, 1916. Claims for internment and effects. Claimant came to Canada June 1920.	Unstated	Disallowed.
1614	Mrs. Mary A. Wilkie	Claims for loss of son, wireless operator on SS. *Halifax*, missing Dec. 1917.	5,000 00	2,000 00
1622	John E. Hassan	2nd Engineer on SS. *Morwenna*, sunk May 26, 1915. Claims for effects.	693 00	668 00
1623	Robert J. Watts	Seaman on SS. *Patricio*, sunk May 8, 1917, and SS. *Lacrtes*, sunk Aug. 1, 1917. Claims for personal injury.	1,500 00	1,500 00
		Loss of effects	500 00	
1641	Joseph Lacasse	Horseman on SS. *Mount Temple*, sunk Dec, 6, 1916. Claims for wounds, internment, etc.	3,600 00	2,500 00
1648	Fred K. LeVatte	3rd Engineer on SS. *Morwenna*, sunk May 26, 1915. Loss of effects.	485 00	550 00
1649	Walter Burke	Seaman on SS. *Cairngowan*, sunk April 20, 1916. Claims for personal injury and for effects.	1,366 00	500 00
1652	Mrs. Ellen M. Bennett	Claims for husband's death in 1927 by exposure. Steward on SS. *Hesperian*, sunk Sept. 4, 1915. Loss of life.	9,796 00	2,000 00
		Loss of effects	500 00	500 00
1654	Archibald H. McInnes	Horseman on SS. *Canadian*, sunk April 4, 1917. Loss of effects.	457 00	500 00
1655	David Lloyd Jones	Officer on SS. *Guildhall*, sunk June 25, 1917. Claims for personal injury and for effects.	6,000 00	4,000 00
1657	Estate of John Brint per W. F. Brint (father).	Son was seaman on Schooner *Watauga*, sunk March 27, 1918. Claims for loss of life and loss of effects.	24,000 00	250 00
	Mrs. L. Brint	Also claims for loss of son, she she being dependent.	Unstated	2,000 00
1662	Hugh C. Warner	Chief Officer on SS. *Condor*, sunk Oct. 11, 1914. Claims for expenses and loss of effects.	2,093 39	1,200 00

LOSSES ARISING OUT OF THE DESTRUCTION OF MERCHANT SHIPPING—*Continued*

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1666	Joseph Welch	Seaman on SS. *Stephano*, sunk Oct. 8, 1916. Claims for effects.	397 85	500 00
1672	William J. Lambert	Fireman on SS. *Sunnisde*, sunk Nov. 9, 1916, and SS. *Snowden Range*, sunk March 28, 1917. Claims for loss of effects.	1,000 00	1,000 00
		Personal injury	Unstated.	
1674	Henry J. Fault	Seaman on SS. *Zeno*, sunk Feb. 20, 1918. Claims for personal injury and effects.	2,500 00	2,500 00
1676	Mrs. Mary Mason	Claims for subsequent death of husband and loss of effects. Was cook aboard SS. *Annapolis*, sunk April 19, 1917. He died April 2, 1921.	1,000 00	1,000 00
		Loss of his effects	300 00	300 00
1683	George Leduc	Horseman on SS. *Anglo Columbian*, sunk Sept. 23, 1915. Claims for loss of wages and for effects.	3,750 00	500 00
1688	Frederick Radford	Violinist on SS. *Transylvania*, sunk May 4, 1917. Claims for loss of music and effects.	575 00	575 00
1699	Mrs. Annie Peacock	Father was engineer on SS. *Clintonia*, sun , Aug. 1, 1915. See also Case 1089. Claims for effects.	520 00	520 00
1701	Hiram C. Mitchell	Chief Officer on SS. *Stephano*, sunk Oct. 9, 1916. Claims for his effects.	850 00	850 00
		Wife also claims for her effects	2,111 60	1,611 60
		Also for child's effects	295 25	295 25
1703	Marjorie E. Langridge *et al*	Three infant children of chief steward on SS. *Skaraas*, sunk May 23, 1918. Aunt submits claim on behalf of children for loss of life.	8,000 00	Disallowed.
1704	Rachel Anderson *et al*	Claims for loss of life of husband on SS. *Cameronia*, sunk April 15, 1915.	8,000 00	Disallowed.
1705	Harry E. Raymond	Seaman on SS. *Hesperian*, sunk Sept. 4, 1915. Claims for effects.	587 20	587 20
1710	Edmund E. Manning	Captain of Schooner *Wm. T. Lewis*, attacked by submarine Sept. 2, 1915. Claims for effects.	2,075 00	1,875 00
1713	James de Young	Seaman returning on SS. *Carpathia*, sunk July 17, 1918. Claims for effects.	305 00	305 00
1718	Mrs. T. Rayworth	Widow of seaman on SS. *Berwick Law*, sunk Dec. 2, 1917. Claims for effects.	Unstated	500 00
1719	Peter Blake	Seaman on SS. *Budnognat*, sunk July 2, 1915. Claims for effects.	400 00	500 00
1722	Edwin Shaw	1st Engineer on SS. *Dundee*, sunk Jan. 31, 1917; SS. *Necpawah*, sunk April 22, 1919. Claims for effects lost on both vessels.	Unstated	1,200 00
1724	Frank Leonard	Claims for loss of brother, horseman on SS. *Anglo California*, sunk July 4, 1915. Dependency.	10,000 00	2,500 00
1732	Capt. Albert Nicholl	2nd officer on Schooner *Biancia*, sunk Aug. 24, 1918. Claim paid by Newfoundland. Claims for injury and effects.	2,594 00	Disallowed
1733	Hector R. Archer	Steward on SS. *Hesperian*, sunk Sept. 4, 1915. Claims for effects.	500 00	500 00
1739	Capt. George L. Hayes	Captain on SS. *Annapolis*, sunk April 19, 1917. Claims for effects.	950 00	Disallowed
1757	Leonard J. Bigg	3rd Engineer on SS. *Empress of Midland*, sunk March 27, 1916. Claims for effects.	575 00	575 00
1767	Mrs. C. A. Robertson	Claims for loss of life of husband, 1st Engineer on SS. *Hogarth*, sunk June 7, 1918.	6,000 00	Disallowed

LOSSES ARISING OUT OF THE DESTRUCTION OF MERCHANT SHIPPING—*Concluded*

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1770	Estate of Arthur L. Lintlop.....	Estate claims for loss of life, Chief Steward, SS. *Moriconna*, sunk May 26, 1915.	Unstated	
		Loss of effects.....	500 00	500 00
1771	Jacob Mosher.....	Claims for loss of son, seaman on SS. *Lake Eden*, sunk Aug. 21, 1918. Loss of life.	Unstated	2,000 00
		Loss of effects.....	Unstated	250 00
1772	Mrs. W. Sterling.....	Claims for loss of husband, seaman on SS. *Sharon*, reported missing Nov., 1914.	2,300 00	Disallowed
1788	Capt. W. F. Spurr.....	Supplementary claim arising out of Case 1167 re personal injury on SS. *Port Dalhousie*, sunk March 19, 1916.	3,500 00	Disallowed
1798	C. D. MacKenzie.....	Quartermaster on SS. *Carthaginian*, sunk June 14, 1917. Claims for personal injury.	Unstated	
		Loss of effects.....	300 00	2,500 00
1813	Mrs. Christina Ferris.....	Claims for loss of son's effects, seaman on SS. *Coronda*, sunk March 13, 1917.	640 00	250 00
1819	James A. Marshall.....	Seaman on SS. *Middlesex*, sunk May 16, 1917. Claimant came to Canada in 1921. Claims for effects.	200 00	Disallowed
1822	Estate of L. A. Fralic.....	Deceased was boatswain on SS. *Alamance*, sunk Feb. 5, 1918. Claims for loss of effects.	1,097 00	250 00
		Loss of life.....	75,000 00	
1851	Thomas J. Nolan.....	Wireless operator on SS. *Telena*, sunk April 21, 1917, and on SS. *Oldfield Grange*, sunk Dec. 11, 1917. Claims for effects on both vessels.	960 00	710 00
		Personal injury.....	200 00	
1855	William Bowden.....	Seaman on SS. *Oriflamme*, attacked April 20, 1917, and sunk Nov. 25, 1917. Claims for personal injury and facial disfigurement.	3,000 00	2,500 00
		Loss of effects.....	196 24	196 24
2183	John Mills.....	Fireman on SS. *Whitehead*, sunk Oct. 15, 1917. Claims for loss of time and for effects.	160 00	500 00

CASE 1186—THOMAS G. HUNTER

This claim arises out of the destruction of the ss. *Anglo-Columbian* by enemy action on September 23, 1915. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has already been the subject of awards made by the previous Commissioner (Cases 1094, 1100 and 1105).

The claimant, a British subject resident in Canada since 1912, shipped aboard the *Anglo-Columbian* as a horseman. He had been refused for military service in this country and was proceeding to Scotland in the hope that he might enlist there—a hope which he eventually realized. His presence aboard the vessel is proven by letter from the owners, who also certify that he signed on as horseman on September 10, 1915, and was paid off at Cardiff on September 23, 1915. When the vessel went down the crew was picked up by H.M.S. *Lily*, landed at Queenstown, Ireland, and later transported to Cardiff, Wales.

Claimant makes claim for the loss of his personal effects and cash, which he values at $278. His case was disallowed by the late Dr. Pugsley because claimant failed to appear to substantiate the amounts claimed or his presence

aboard. There is a notation by Commissioner Friel suspending action in case claimant should later appear. This he has done and I consider that he has made out a case for the loss of his effects. Applying the principles stated in Opinion No. 3, I consider that claimant is entitled to an award upon the same basis as other seamen in the merchant service.

I would, accordingly, recommend payment to him of the sum of $500, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 4, 1931.

CASE 1190—MRS. AGNES REID

This claim arises out of the destruction of the ss. *Stuart Prince*, on March 22, 1917, by enemy action off Broad Haven, with the loss of twenty lives. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports.

Claim is made by Mrs. Agnes Reid, as the mother of James Reid, who was a member of the crew and preparing for examination as a mate. He was 21 years of age. His presence aboard is established by letter from his cabin mate, Albert Fitzgerald, who escaped in one of the boats and who testifies to the circumstances of the loss. Corroboration is furnished by a brother of deceased, who saw letters written by deceased from various ports while he was aboard. The boat in which Reid, with the master, escaped from the ship was lost and her entire crew drowned.

Claimant alleges that she was partially dependent upon her deceased son, who contributed to her support amounts estimated to average about $5 a week. There is corroboration for this statement in the testimony of another son who appeared before the commission at Windsor, Ont.

In addition to claiming $2,000 for the loss of her son, claimant also claims for the loss of his personal effects and has produced a written authorization from her remaining children, brothers of the deceased, that any award made may be paid to the mother. I am disposed to allow the usual amount for loss of effects, viz. $250 (Opinion No. 3). Applying the principles stated in Opinion No. 2, I consider the amount claimed for the loss of her son's life very reasonable. I would, accordingly, recommend payment to claimant of a sum of $2,250, with interest at the rate of 5 per cent per annum, upon $250 from March 22, 1917, and upon the balance from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 5, 1931.

CASE 1192—JOHN HAYWARD

This claim arises out of the destruction of the ss. *Antony* by enemy action on March 17, 1917. The destruction of the vessel, in the manner indicated, is established by Admiralty reports.

At the request of the Reparation Claims Department, London, England, the claim was returned and was fully dealt with by that Department.

The claim is, therefore, disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1194—MRS. MARY ALEXANDER

This claim, as its docket number will indicate, was filed before the previous commissioner. It was not dealt with because claimant could not be located. She appeared before the present Commission at its Toronto sittings and made claim for the death of her son, George Alexander, who lost his life aboard the ss. *California* sunk by enemy action on February 7, 1917. The loss of the vessel, in the manner indicated, is established by Admiralty reports and the presence of the deceased aboard, as assistant steward, and the loss of his life, by certificates of the Registrar General of Shipping.

Claimant is a British subject, born in Scotland, who came to Canada to reside permanently in January, 1920. She landed in St. John, N.B., on January 11, 1920. Having regard to the principles stated in Opinion No. 1, I consider that this Commission has jurisdiction to deal with the case. Her claim was originally filed with the British authorities, but was referred to Canada in view of her change of residence.

Claimant alleges that she was dependent, in part, upon her deceased son. He was only 17 years of age when he died, but had contributed to his Mother's support from time to time, and it is entirely probable that he would have continued to do so. The evidence as to the amount he did contribute is very indefinite. Claimant, who is now 68 years of age, is still compelled to work to assist in supporting herself. She has three other children and makes her home with her daughter. In respect of a possible claim for loss of the personal effects of deceased, the remaining children have assigned all their rights to their mother. The deceased died unmarried and intestate.

In these circumstances I am of opinion that claimant has established partial dependency upon her deceased son and is entitled to recover for the reasons stated in Opinion No. 2. She is, moreover, entitled to receive the usual scale allowance for loss of personal effects of $250 (Opinion No. 3). The claim as originally filed was for £500, and I would, accordingly, recommend payment to claimant of the sums of $2,500 and $250, a total of $2,750, with interest, at the rate of 5 per cent per annum, upon $250 from February 7, 1917, and upon $2,500 from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CASE 1195—MICHAEL CAREW

This claim arises out of the destruction of the ss. *Stephano* by enemy action on October 8, 1916. The loss of the vessel, in the manner indicated, is established by Admiralty reports, and her loss has been the subject of awards made by the previous Commissioner (Cases 1211, 1237, 1250, 1251).

It developed that the claimant at the time of her loss was and still is a citizen of Nefoundland.

The claim made by him for loss of personal effects has been forwarded to the Department of Justice in Newfoundland for attention.

As explained in Opinion No. 1, I am of opinion that this Commission is without jurisdiction to entertain the claim. It is, accordingly, disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1197—THOMAS J. BOULTON

This claim, as its docket number will indicate, was filed with the previous commissioner, but was not dealt with because the claimant did not appear.

He appeared before the present commission and makes claim for injury to his health and loss of personal effects. He was purser aboard the ss. *Mount Temple* which was captured and destroyed by the enemy raider *Moewe* on December 6, 1916. Claimant, with other members of the crew, was taken prisoner and spent twenty-five months in prison camp at Brandenburg in Germany.

The claim possesses great merit and it is with regret that I am compelled to disallow it on the ground that claimant had not become resident in Canada prior to January 10, 1920, the date of the ratification of the Treaty of Versailles. He is a British subject, born in England, but came to Canada for the first time in October, 1920.

For the reasons explained in Opinion No. 1 his claim is barred. It is only in cases in which claimants had come to Canada on or previous to the date indicated that jurisdiction can be assumed. The claim must, therefore, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 10, 1931.

CASE 1207—MRS. ANNIE MARTIN

This claim, as its docket number will indicate, came before the previous commissioners. It was disallowed on the ground that the British Reparation authorities had made an award in favour of claimant, and moreover because claimant and her daughter only became residents of Canada in 1920.

The late Donald Martin, a British subject resident in Glasgow, lost his life on December 18, 1916, when the SS. *Opal* of which he was master, was destroyed by enemy action. These facts are established by Admiralty reports and certificates filed of record.

Claimant is his widow, and makes claim as well on her own behalf as on behalf of her daughters. The family came to Canada to reside in May, 1920, and have remained here since that time. Claim was first lodged with the British authorities, who, at first, took the position that as claimants had moved to Canada, the claim could not be entertained in Great Britain. Subsequently, however, the claim received consideration at their hands, and was accepted against United Kingdom funds, as appears from letter from the Finance Department of the Board of Trade, under date of February 15, 1927. Eventually an award was made and paid to claimant, amounting to £103, on the ground of dependency and for loss of personal effects.

Counsel for claimant has pressed the claim very vigorously, and insists that the allowance made in England was wholly inadequate and should not operate as a bar to claimant here. He contends also that Dr. Pugsley who heard claimant, intimated that he would grant her an award. It is well to point out that the statement made in the brief submitted and contained also in the testimony of claimant's daughter (quite irrelevant though it be) that the late Dr. Pugsley said claimant "had a valid claim" is inaccurate. I have read the evidence adduced before Dr. Pugsley and cannot find any such statement made by him. He merely ventured the tentative opinion, subject to full consideration, that claimant might have a claim. In his signed decision he declared that he was without authority to deal with the case and recommended that the matter be referred to the British authorities. After that date, it was in fact, as above stated, dealt with by the British authorities.

It is unnecessary to labour the point further, because I am clearly of opinion that I have no jurisdiction to entertain the claim, first, because it had already been dealt with by the British authorities, and second, because, for the reasons explained in Opinion No. 1, claimant had not become a resident of Canada on or before January 10, 1920. I must, accordingly, disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, FEBRUARY 17, 1931.

CASE 1417—PHILIP CAMPBELL

This claim arises out of the capture and destruction of the British steamer *Georgic*, by the enemy raider *Moewe* on December 10, 1916. The claimant, a British subject, born in Liverpool, England, and who came to Canada to reside in June 1920, was a coal trimmer aboard the vessel, and, with the other members of the crew, was made a prisoner and interned in Germany for the duration of the war. He served his term of imprisonment at various prison camps and now makes claim for the "usual grant as paid to others imprisoned at this time, which averaged £290 to £320."

From his statement, it would appear that claimant signed on under the name of John Keegan. His discharge book was lost in Germany, but later when he again resumed his calling as seaman, he employed his right name, but to avoid confusion signed off as J. Keegan Campbell. The confusion arising from the use of an alias subsisted for some time, but I think it has now been established that the claimant was aboard the vessel and was in fact interned in Germany as he declares. There is an intimation in the record that the British authorities declined to entertain the claim because claimant had become a resident of Canada. He, therefore, did not receive an award similar to that apparently received by his shipmates. As to the nature of such award, I have no information. In the previous decision written by Mr. Friel the claimant had not appeared and no action was taken.

For reasons detailed in Opinion No. 1, I am very reluctantly compelled to disallow this claim, because claimant was not resident in Canada on or before January 10, 1920, date of the ratification of the Treaty of Versailles. Having accepted that date as constitutive of jurisdiction I cannot relax the rule and admit this claim. As explained in the Opinion referred to, it would be more logical to require claimants to establish residence prior to the actual loss, but I prefer to adopt the more equitable later standard. At any rate, that is the date upon which Germany undertook to pay and may be said to be the pivotal date upon which obligations under the Treaty revolved and became effective. The claim must be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, JANUARY 24, 1931.

CASE 1614—MRS. MARY A. WILKIE

This claim arises out of the loss of the ss. *Halifax* aboard which the late Albert H. Wilkie is declared to have been wireless operator. The evidence both as to the loss of the vessel by enemy action and the presence of the deceased aboard is very meagre. The Admiralty reports do not contain the name of the *Halifax* as destroyed by enemy action, but there is an inference that her loss is attributable to this cause. Such inference was sufficient to permit of the previous commissioner granting an award in respect of her loss. I am disposed to follow him in this finding.

The only evidence as to the presence of the late A. H. Wilkie aboard consists of a letter written by him to his mother, the claimant, on the eve of his departure, naming the vessel and indicating that his quarters were being prepared for him. I am convinced that the deceased did sail aboard the *Halifax* and lost his life when she became a loss.

Claim is made by the mother on the ground of dependency. It is alleged that her deceased son contributed as much as $30 per month to her support. Another son appeared before the Commission and explained that his mother was in receipt of certain family estate revenues which he and his cousins allowed her to receive. There seems no question that claimant was in part dependent upon her deceased son. She is old and in rather a helpless condition.

On the ground of dependency, having regard to the other means of support which claimant commands, I consider a fair allowance would be $2,000 (Opinion No. 2), and I recommend payment to her of that sum, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 26, 1931.

CASE 1622—JOHN E. HASSAN

This claim arises out of the destruction of the ss. *Morwenna* on May 26, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has already been the subject of awards by the previous Commissioner. Claimant was second engineer aboard, as appears from certificate of her owners, the Dominion Steel and Coal Corporation Ltd., and letter of the chief engineer, R. A. Richards.

Claimant is a British subject, born in Glasgow, Scotland, who came to Canada in 1910 and remained till 1920, when he went to New Zealand, where he now resides. He did not appear before the Commission, but from the documents of record his case is clear, and an assessment may be made. He claims for the loss of his personal effects, which he values at $318. Upon a scale award for loss of personal effects and solatium, as shown in Opinion No. 3, I consider claimant entitled to the value of his personal effects as claimed, and I would add a further sum of $350 as solatium.

I would, accordingly, recommend payment to the claimant of a sum of $668, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CASE 1623—ROBERT J. WATTS

This claim arises out of the destruction of two vessels by enemy action, viz: the ss. *San Patricio* and the ss. *Laertes*. It is alleged that the former was sunk by enemy torpedo on May 8, 1917, the latter on August 1, 1917. The claimant declares that he was aboard both vessels when lost, as an A.B. and operating the guns. He claims, for loss of effects and personal injuries, a total sum of $1,800.

The loss of both vessels, in the manner indicated, is established by Admiralty reports and the presence on board the ss. *San Patricio* of the claimant by letter from her owners filed of record. There is no corroborative evidence of his presence aboard the *Laertes*.

There is considerable confusion in his evidence as to these two occurrences, and while his claim for injuries, from the sworn claim filed by him, would appear to result from the destruction of the *San Patricio*, he distinctly states in his deposition that these injuries were sustained when the *Laertes* went down. The injuries complained of were to his back and head. The only medical evidence adduced consists of a certificate of Dr. Walter J. Keating annexed to the claim, indicating that claimant suffers an impairment of hearing resulting from concussion, and a weakened back due to strained ligaments. His percentage of disability in the general labour market is placed at 20 per cent. Dr. Keating did not appear before the Commission at its sittings in Halifax.

Claimant received a sum of $200 from the owners in consideration of his services in standing by his ship when she was torpedoed, and replying to the enemy's attack. This in part was attributed to the *San Patricio*. The evidence as to the *Laertes* is incomplete.

In these circumstances it is difficult to assess the amount due to claimant. I am satisfied that he was aboard both vessels when they were destroyed, and I would accordingly be disposed to allow him for each occurrence a sum of $500 to cover loss of personal effects and solatium upon the principles enunciated in Opinion No. 3. As to the personal injuries, the evidence is not satisfactory, but I am inclined to make an allowance of $500 therefor. I would, accordingly, recommend payment to claimant of a total sum of $1,500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 18, 1930.

CASE 1641—J. LACASSE

This claim arises out of the destruction of the ss. *Mount Temple* on December 6, 1916, by enemy action. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

Claimant, a Canadian born, had enlisted in the 57th Battalion for overseas service on July 6, 1915, but was discharged as "being unlikely to become an efficient soldier", on February 19, 1916. In November of the same year he engaged aboard the *Mount Temple* as a foreman horseman. It is proven, by the evidence of claimant, corroborated by a fellow employee, that he was aboard when the vessel was shelled by the enemy raider *Moewe*. He states he was wounded on the side of the head and back by shell fire.

He was taken prisoner aboard the *Moewe*, where he was kept about five days. In company with other prisoners he was landed in Germany and after being held in various camps was finally interned at Brandenburg prison camp, where he remained two years and six months. He received medical attention at this camp, and underwent several operations for his injuries. He suffered from eczema while there and had his feet frozen. He was finally repatriated to Canada via Denmark shortly after the Armistice.

Claimant was about 46 years of age at the time he was taken prisoner and alleges that he was in good health, which is, to a certain extent, borne out by the fact that he had been accepted for military service, and was not discharged as medically unfit. While at Brandenburg camp he was compelled to do light work. As a result of his experiences he alleges that his health has been permanently affected and that he is no longer able to work as he did previously. The medical evidence discloses that claimant appears to be much older than he is, that he bears scars on his head and back which could have been caused in

the manner described, also a scar across the abdomen which has the appearance of having been the result of an operation. Claimant gives the history of a hernia, which is probably borne out by his appearance. Dr. Guy Johnson is of opinion that his present condition might easily have resulted from the history given by claimant. At present he suffers from kidney trouble, arterio sclerosis, and has exaggerated reflexes. Dr. Johnson estimates his disability at 20 per cent.

Before the war claimant earned about $1,500 per annum and since has with difficulty managed to earn about $500. He amended his claim, at the hearing, from the amount originally claimed, $3,600, covering loss of wages and personal injuries, to $8,035 on the same basis and for loss of personal effects.

I have analyzed the decisions of previous commissioners dealing with prisoners taken from the *Mount Temple* and who underwent treatment somewhat similar to that meted out to claimant. Even in the case of a wounded prisoner, the highest award made was $1,595 which covered damage to health, loss of effects and loss of time. Applying the principles stated in Opinion No. 2, and having regard to the injuries sustained by claimant when he was captured, I consider that he should receive an award in excess of that accorded to his fellow prisoners. It seems desirable, however, to make awards flowing out of the same incident as uniform as possible. I would, accordingly, recommend payment to claimant of a total sum of $2,500 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 10, 1931.

CASE 1648—FRED K. LEVATTE

This claim arises out of the destruction of the ss. *Morwenna* by enemy action on May 26, 1915, off the coast of Ireland, with loss of one life. The loss of the vessel, in the manner indicated, is established by Admiralty reports and has been the subject of award by the previous commissioner (Case 1163).

The claimant was third engineer aboard the vessel and lost his personal effects, for which claim is made in the sum of $485.

Claimant has proven his presence aboard, and is entitled to an award upon the same basis as other seamen claimants. Applying the principles stated in Opinion No. 3, I, accordingly, recommend payment to him of the sum of $550 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 21, 1930.

CASE 1649—WALTER BURKE

This claim arises out of the destruction of the British cargo steamer *Cairngowan*, by enemy action on April 20, 1916, while on a voyage from Birkenhead, England, to Newport News, U.S.

The claimant, a Canadian, alleges that he was aboard the vessel as a seaman and in the claim as originally presented claimed for loss of personal effects, loss of wages and personal injury, a total sum of $1,366. He appeared before the commission at the sittings in Boston, and restricted his claim to loss of personal effects.

There was considerable confusion at the outset as to the identity of the claimant. Apparently two Walter Burkes had filed claims, but it subsequently developed that they are father and son, and the claims do not relate to the same incident. A further difficulty arose as to the name of the vessel aboard which the present claimant alleged he had been torpedoed. As stated in his sworn declaration, she was the *Carongowan* and the date of her loss was stated to be in March or April, 1917. Enquiry of the Admiralty failed to reveal the name of any such vessel or her destruction by the enemy. It was ascertained, however, that the *Cairngowan* of Newcastle was sunk by enemy action on April 20, 1916, while on the voyage noted. At the hearing, claimant explained that he could not remember the name of the vessel nor any of his shipmates, even the Captain's name, because he was taken on just as she was about to sail and the sinking occurred very shortly thereafter.

Counsel representing claimant was asked to obtain some corroboration of the claimant's presence aboard, and at a later hearing held in Boston on December 8, 1930, a letter from the Cairn Line of Steamships was produced, stating that one William Burke was serving as an A.B. on the *Cairngowan*, which vessel signed on her crew at Liverpool on April 16, 1916, and was sunk on April 20, 1916. While the name does not correspond with claimant's name, I am convinced that he is the same man and that he was aboard when she was sunk. He told his story in a convincing though illiterate manner, and I consider there are sufficient corroborative details to declare that he has established his case.

In these circumstances, for the reasons stated in Opinion No. 3, I would recommend payment to the claimant of the sum of $500, for loss of personal effects and the usual solatium, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment. (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 9, 1931.

CASE 1652—MRS. ELLEN M. BENNETT

This is a claim presented by the widow of the late Fred Bennett, who died at Montreal on July 21, 1927. The deceased had been a member of the crew of the ss. *Hesperian*, sunk by enemy action on September 4, 1915. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

The presence of the late Fred Bennett aboard, employed as waiter in the third cabin, is proven by letter from her owners. No claim was made by deceased during his lifetime but his widow now presents a claim for the loss of her husband's personal effects and cash in the sum of $500; loss of wages through incapacity $4,796; and loss of her husband's life, $5,000, which is attributed to injuries or illness contracted at the time the vessel went down.

Apart from the evidence of claimant, who, of course, can only recount what was told by her husband, there is nothin in the record to show what particular hardship the deceased suffered when the vessel was sunk. There are statements by witnesses that before the occurrence he was in apparent good health, had been an excellent employee, and that when he returned his health seemed affected and he was unable to work as he had done before. Claimant describes his disability as heart attacks and rheumatism

The medical evidence of Dr. Walter Fisk, who had attended deceased from September, 1916, to the time of his death, gives the cause of death as myocarditis. When asked whether the condition he observed in his patient could have resulted from the experiences recounted by him, Dr. Fisk says " it seems to be a legitimate

explanation of his condition at the time, I thought." The suggestion is made that the heart affection, which manifested itself in fainting spells, may have been due to the poison from the arthritis, which affected the heart muscle. It is more correct to say, I am informed, that both these conditions probably resulted from the same primary cause.

There is no doubt that Bennett was not well when he returned to Canada, and did sustain loss through incapacity, but it must be remembered that he still went to sea as a steward and in fact was aboard the ss. *Charma* and ice-bound in a Russian port for six months. This is spoken to by the claimant. In these circumstances it is difficult for me to reach the conclusion that Bennett's death, twelve years after the occurrence complained of, resulted *directly* from such cause. I fear that I must find that there were, or may have been, intervening causes in the chain of causation. Be that as it may, claimant is entitled to consideration for the work she was compelled to do by reason of the partial incapacity of her husband, which, in some measure at least, is ascribable to the causes indicated. They had one daughter, now married, and claimant of necessity had to bear the burden of her upbringing. Claimant testifies that she was compelled to do dressmaking to help out, and the evidence is clear that they were in very straitened circumstances. Claimant has made out a case for loss of personal effects and cash, and though the proof as to the actual amount is indefinite, I would allow the sum claimed, $500. I would also allow a sum of $2,000 as loss sustained by claimant by reason of the injuries or illness of her husband. I would, accordingly, recommend payment to claimant of the sum of $2,500, with interest at the rate of 5 per cent per annum, upon $500 from September 4, 1915, and upon the balance from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 5, 1931.

CASE 1654—A. H. McINNES

This claim arises out of the destruction of the ss. *Canadian* on April 4, 1917, by enemy action off the southwest coast of Ireland. The fact of the loss of the vessel, in the manner indicated, is established by Certificate of the Registrar General of Shipping and the presence aboard of the claimant, in the capacity of horseman foreman, is proven by letter of owners, the Leyland Line, and certificate of the chief steward of the vessel.

The claimant is a British subject, born in Newfoundland, but resident in Canada since 1867. He declares that on the night of April 4 the vessel was hit twice by torpedoes and the crew compelled to take to the boats. The *Candian* went down some ten minutes after. They were picked up about three hours later by the British patrol boat *Snowdrop*. Claimant lost his personal effects and some cash, for which he makes claim in the sum of $457.

For the reasons explained in Opinion No. 3, I consider claimant entitled to receive the usual scale award for loss of personal effects, and solatium accorded to seamen in the merchant service, amounting to $500. I would, accordingly, recommend payment to claimant of the sum of $500 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CASE 1655—DAVID LLOYD JONES

This claim arises out of the destruction of the ss. *Guildhall* on June 25, 1917, by enemy action, forty miles southwest by west half from Bishop rock at the entrance to the English channel.

The loss of the vessel, in the manner indicated, is established by Admiralty reports and claimant's presence aboard, as second mate, apart from his own testimony, is attested by certificate of the Registrar General of Shipping dated November 3, 1930.

The claim as originally filed has been amended, with leave, to correct certain inaccuracies which existed therein. These have now been satisfactorily explained. Claimant asserts a claim in the sum of $6,000 which he particularizes as follows: "Five thousand dollars for lessening of physical fitness, reducing earning capacity 25 per cent and general disability from nervous shock in consequence of which claimant compelled to give up career as ship's officer. Also $1,000 loss of property and personal effects".

The claimant, a British subject, was born in Wales and came to Canada in June, 1912, where he has since remained and is now married and resident in Halifax.

Three or four days out from Gibraltar, bound for Cardiff, Wales, in June, 1917, the *Guildhall* was struck by enemy torpedo on the port side amidships just abaft the bridge. Claimant was on the bridge at the time, about 8.20 in the evening. By the force of the explosion he was hurled from the bridge to the deck below and was struck on the left breast with a piece of steel, inflicting a wound. The vessel heeled over with a gaping wound in her side and the crew took to the boats. In the excitement of lowering the boats claimant was thrown into the water but later managed to get aboard one of the boats and took command, the first mate being seriously wounded. Several lives were lost (according to the Admiralty report, twelve), including the captain.

Claimant, with the assistance of the boat's crew, navigated the craft until the fourth morning after the sinking, when they were picked up by the ss. *Brunehilde* and eventually landed at Falmouth and placed in hospital there. As a result of the hardship and exposure undergone during these three days in an open boat, wet and injured, the claimant contends that he sustained a severe bronchial condition from which he now suffers, and that his nerve has been completely shattered by his experiences, which eventually caused him to abandon the sea as a calling. He says that he became unfit to assume the responsibilities of a ship's officer and was in dread of the sea. He moreover complains that his hearing has been permanently affected by the concussion of the explosion when the vessel was torpedoed.

He received very little medical attention, alleging that he was too poor to consult physicians but resorted to nerve tonics which he took constantly but without visible benefit. He testifies that before the casualty he was in excellent physical condition and had intended and was preparing to undergo examination for mate's certificate and eventually hoped to command his own vessel. Owing to his injuries he has abandoned the sea and is now a painter, doing seasonal work in and around Halifax, for which he receives, when working seventy cents an hour. As second mate he was earning $125 per month over and above his keep. His claim is put forward upon the basis of the difference between what he considers he would have earned as a seaman and his present limited occupation. He puts this at $500 per annum for a period of twelve years, a total sum of $6,000.

The medical testimony bears him out to a certain extent, but as he was examined by Dr. Douglas in 1929 only, it is obviously difficult precisely to attribute his present condition to the exposure and injury sustained when the vessel went down. His hearing is defective and may have resulted from con-

cussion as claimed. It is improving, however. His chest condition is permanent and would in itself preclude him from going to sea as a ship's officer, according to Dr. Douglas. His nervous condition is still serious and the doctor places his percentage of disability at fifty per cent.

On the whole, therefore, I am of opinion that the claimant did suffer permanent injury which may be attributed to the sinking of the vessel in the circumstances noted. For the reasons stated in Opinion No. 2, I consider that he is entitled to an award for personal injuries and loss of personal effects, and I would recommend payment to him of a total sum of $4,000, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 5, 1930.

CASE 1657—MRS. LUCRETIA BRINT AND W. F. BRINT

This claim arises out of the destruction of the *Watauga* by enemy action on March 27, 1918, off the coast of Portugal. The fact of the loss of the vessel, in the manner indicated, is established by official statement of the Registrar of Shipping for St. Johns, Newfoundland, the vessel's port of registry, supplemented by letter from her owner, dated May 14, 1918.

The crew took to the boat, but it capsized and the members of the crew were drowned, with the exception of Roland Lacey, the cook. John Brint, a Canadian, domiciled in Nova Scotia, was a member of the crew and lost his life in the circumstances noted.

Claim is now made by the mother of the deceased, Mrs. Lucretia Brint, who resides at Shelburne, N.S., for an amount unstated, on the ground that she was dependent upon her son for support.

Claim is also made by the father of the deceased, W. F. Brint, who resides at Yarmouth, N.S., where he appeared before the Commission. The claim, in this case, is stated at the sum of $24,000 and apparently is based upon dependency calculated at the rate of $800 a year for thirty years.

The deceased, John Brint, 32 years of age at the time of his death, was unmarried and it is declared earned approximately $800 per annum in his vocation of fisherman.

It appears from the evidence that W. F. Brint deserted his wife, when the latter was 28 years of age, leaving her with six children. He has never contributed to her or the children's support since that time and the claimant, Mrs. Brint, with the assistance of her parents, brought up the family. The deceased, when ashore, lived with his mother and had no relations with his father. He contributed to the support of his mother and, while the amounts paid were not regular, it would appear that she may have received up to $100 per annum from him. She is in destitute circumstances and, although now 64 years of age, is compelled to go out to service and, by needlework, ekes out a miserable existence.

The other claimant, W. F. Brint, father of the deceased, admits that he deserted his wife and has not contributed to her support. He asserts that he did assist in bringing up the deceased but admits, in corroboration of his wife's statement, that his father-in-law assisted in such upbringing. He admits that he was induced to put forward his claim by his other children. While he contends that his deceased son contributed somewhat to his support, it is evident from his testimony that he was in no sense dependent upon his son and possibly would have made no claim except for the suggestion of his other children. On the other hand, this claimant knew and admits that the son supported his mother. The amount claimed $24,000 is manifestly excessive since the son, in any event would not contribute his entire yearly earnings of $800 to his father.

In these circumstances, I am clearly of the opinion that the mother was, at least partially, and the father was not, dependent upon the deceased for support. As I view the case, the mother has sustained pecuniary loss through the death of her son; the father has not.

Having regard to the station in life of the parties, the amount contributed by the son to his mother's support, and applying the principles stated in Opinion No. 2, I am disposed to recommend a payment of $2,000 to the claimant, Mrs. Lucretia Brint, with interest thereon, at the rate of 5 per cent per annum, from the 10th day of January, 1920, to date of payment (Opinion No. 4).

As to the claim of W. F. Brint, for the reasons above set forth, I cannot allow the amount claimed. Another consideration, however, arises. While no claim has specifically been advanced for the value of the effects lost by the deceased, I am of the opinion that compensation should be allowed therefor. The deceased left no will. Any award will accordingly be to his estate, subject to administration. I am informed that under the law of Nova Scotia, upon intestacy, previous to May 17, 1919, the father would be solely entitled to take, in the absence of a widow or children of the deceased. John Brint lost his life on March 27, 1918, and his father will accordingly be enabled to recover from the administrator of the estate any award made for such effects. For the reasons expressed in Opinion No. 3, I would recommend payment of $250 to the Estate of the late John Brint for loss of personal effects, with interest thereon, at the rate of 5 per cent per annum, from the date of the loss, March 27, 1918, to date of payment.

To summarize, therefore, I recommend the following payments in this case:—

(*a*) To Lucretia Brint, mother of the deceased, the sum of $2,000 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

(*b*) To the estate of the late John Brint, the sum of $250 with interest thereon, at the rate of 5 per cent per annum, from March 27, 1918, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, November 20, 1930.

CASE 1662—HUGH C. WARNER

This claim arises out of the capture and destruction of the British steamer *Condor*, by the German raider *Karlsruhe*, on October 11, 1914, about 200 miles off the Brazilian coast.

The loss of the vessel, in the manner indicated, is established by Admiralty reports and the presence of the claimant aboard is proven.

The claimant, a Canadian, was chief officer of the vessel at the time. He claims for loss of personal effects, instruments, loss of wages, and expenses of his voyage home to Canada, a total sum of $1,150, which was amended, at the hearing, to the sum of $2,092.39. His vessel was captured and boarded by a crew from the *Karlsruhe* and he was taken, with the rest of the crew, aboard the *Crefeld*, and finally landed at Teneriffe on October 22, 1914, from which port he eventually reached home, via England.

It appears from the evidence that claimant received a sum of $180 from Board of Trade which was evidently advanced to cover the cost of his voyage home. His claim for that item has thus been disposed of. I cannot make any allowance for loss of wages due to the claimant failing to get employment for a period of six months. This cannot be regarded as a direct damage (Opinion No. 3).

I think that substantial justice will be accorded this claimant by allowing him the usual scale allowance (Opinion No. 3) for loss of effects and solatium as a chief officer. I would accord a somewhat larger amount than usual for personal effects inasmuch as claimant has proved that he had with him more than would ordinarily be the case. I would, accordingly, recommend payment to the claimant of the total sum of $1,200 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 22, 1930.

CASE 1666—JOSEPH WELCH

This claim arises out of the destruction of the British steamer *Stephano* by enemy action off Nantucket Light on October 8, 1916.

The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of awards made by the previous commissioners (Cases 1211, 1237, 1250, 1251).

Claimant, a Canadian, produces his discharge certificate dated October 10, 1916, from which it would appear that he was employed aboard the vessel in the capacity of steward. At the time of the loss he was acting as assistant purser and claims for the loss of his personal effects and cash, which he details and values at the sum of $397.85.

For the reasons expressed in Opinion No. 3, I consider that claimant is entitled to an award for loss of personal effects and solatium similar to awards to other seamen of the same classes. I would, accordingly, recommend a payment to him of the sum of $500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 5, 1930.

CASE 1672—WILLIAM J. LAMBERT

This claim arises out of the destruction of two British vessels by enemy action, the *Sunniside* on November 9, 1916, and the *Snowdon Range* on March 28, 1917. The facts of the loss of both these vessels, in the manner indicated, is established by Admiralty reports, and further borne out by letters from their owners declaring, further, that claimant was aboard on each occasion, as fireman. He also has produced his discharge certificate as further evidence that he was aboard when the vessels were lost.

Claimant is a British subject, born in Ireland. He came to Canada in 1919, where he married and has been resident ever since. He now makes claim for the loss of his personal effects, upon which he places a value of $1,000 covering both occasions. He also advances a claim for personal injuries to his thigh, sustained at the time the *Snowdon Range* was torpedoed. He was in the stoke hold when the torpedo came through the engine room and was hit on the right thigh by a flying missile. The thigh swelled badly and caused him great trouble. When they reached Belfast he saw a physician, received treatment, and was laid up for six or seven weeks. He still felt the effect of this injury for six months, but has sustained no permanent disability. The medical evidence is inadequate to support a finding of personal injury, and while it does appear that he received treatment therefor, I am left without any corroboration of claimant's own story as to the gravity of the injury and the period of disability.

For the reasons set forth in Opinion No. 3, I consider claimant entitled to the usual award for loss of personal effects and solatium. I would, accordingly, recommend payment to him of the sum of $1,000, covering his two experiences aboard these vessels, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1674—HENRY J. FAULT

This claim arises out of the destruction of the British steamer *Zeno* by enemy action on February 20, 1918, in the Mediterranean. The loss of the vessel, in the manner indicated, is established by Admiralty reports and is corroborated by letter from her owners, Messrs. Turner, Brightman and Company, of London, England.

The claimant is a Canadian and was at the time of the loss acting as boatswain aboard the *Zeno*. He had signed on as an A.B. When the vessel was torpedoed he was asleep in his bunk and as a result of the explosion, which occurred about 10 feet abaft his bunk, he was thrown violently, landing on his head with the bunk on top of him, pinning him beneath. He managed to extricate himself and succeeded in getting into one of the boats, scantily attired and with none of his personal effects.

They were picked up by a British mine sweeper and eventually landed at North Shields, in England, where he consulated a physician as to his injuries. He signed on another vessel, but was unable to carry on with his work due to his injuries and was finally released by the master and returned to his home in Yarmouth in August, 1918. He endeavoured to take up his previous calling of steamfitter, but found the work too arduous in his weakened condition and had to give it up. During this time he resided with his sister.

Claimant is now a farmer, living on a homestead near Yarmouth, with his family, consisting of a wife and one child. The medical testimony establishes that claimant is disabled to the extent of fifty per cent and from the history of the case, Dr. Hawkins, who gave evidence, states it as his opinion that claimant's condition could, and probably does, result from the injuries received when the vessel was torpedoed. He has attended claimant for eight years and does not think his condition will improve. Claimant stands well in the community and is well spoken of by Dr. Hawkins. The claimant told his story in a very convincing manner and I was impressed with the merit of his claim. He claims a sum of $2,500 for loss of personal effects and personal injury.

I do not consider the amount claimed excessive and, for the reasons expressed in Opinion No. 2, I would recommend payment to him of the sum of $2,500 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 30, 1930.

CASE 1676—MRS. MARY MASON

This claim arises out of the destruction of the SS. *Annapolis* on April 19, 1917, by enemy action off the west coast of Ireland. The loss of the vessel, in the manner indicated, is established by Admiralty reports and is moreover proven by the evidence of her then master, Captain George Hayes, also a claimant before this Commission (Case 1739).

The claimant is the widow of the late John Mason, employed aboard the vessel as ship's cook. Claimant and her husband were British subjects born in

England, but had come to Canada to reside permanently in 1911. John Mason died at the Royal Victoria Hospital on April 29, 1921, suffering from a general toxic condition in the intestines and abdomen.

At the time of the loss of the vessel, claimant's husband had been injured about the face and complained of internal injuries also. He was four days and three nights in an open boat, exposed to the inclemency of the weather before being picked up. Captain Hayes is able to corroborate this statement of the claimant and declares that the crew did suffer great hardship while adrift in the boats, hardship which had a particularly injurious effect upon the health of men of the age of deceased. He would be about 45 years of age at the time. It is, of course, difficult clearly to attribute the cause of death to the injury and exposure suffered by claimant's husband when the vessel was lost, particularly after the lapse of four years. It is in evidence, however, that deceased had been a strong, healthy man before the occurrence in question and that thereafter he was never well, was unable to work, and gradually wasted away. Claimant was compelled to work to support him. Claimant puts forward a very modest claim, $300 for loss of personal effects and $1,000 for the loss of her husband, and I consider her entitled to an award for the full amount. I would, accordingly, recommend payment to claimant of the sum of $1,300, with interest, at the rate of 5 per cent per annum, upon the sum of $300 from April 19, 1917, and upon the balance from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 8, 1931.

CASE 1683—GEORGE LEDUC

This claim arises out of the destruction of the SS. *Anglo-Columbian*, sunk by enemy action on September 23, 1915. The loss of the vessel, in the manner indicted, is established by Admiralty reports and her loss has already been the subject of awards made by the previous Commissioner (Cases 1094, 1100 and 1105).

The claimant, a Canadian, shipped aboard the *Anglo-Columbian* as assistant foreman horseman. There was some confusion in his original statement as to the date of the loss and some difficulty was experienced as to whether he was actually aboard. Finally, he brought forward a fellow employee aboard the vessel, who testified to the fact that claimant was aboard, employed in the capacity stated, and that at the time the vessel was destroyed lost his personal effects.

Claimant makes claim for the loss of his personal effects. In his original statement he also claims for loss of wages and has later still suggested that he sustained damage through personal injuries. This latter claim has not been made out, nor has he succeeded in establishing that he is entitled to payment of wages. He was not, so far as the record goes, interned in Germany. I consider that claimant is entitled to recover on the same basis as other seamen in the merchant service for the loss of his personal effects and I would fix the value thereof, in accordance with the principles stated in Opinion No. 3, at $500. I, accordingly, recommend payment to claimant of the sum of $500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 8, 1931.

CASE 1688--FREDERICK RADFORD

The claimant, Frederick Radford, came to Canada in 1905 and in 1915 was employed aboard the ss. *Transylvania* on her voyage from New York to Liverpool in January, 1915. As bandmaster he had with him a musical library consisting of orchestrations of the various numbers he played. The vessel was chased by submarines but escaped and arrived safely in Queenstown, Ireland. The passengers left the ship and were taken to Liverpool, via Dublin and Holyhead. Claimant was not permitted to remove his musical library which remained aboard. Some time later (May 4, 1917) the *Transylvania* was sunk by enemy action, as is borne out by Admiralty reports. Claimant never recovered his music. He makes claim therefore and estimates the value at $500. He also claims for loss of personal effects which he left aboard a sum of $75.

The presence of the claimant aboard as musician is proven by letter from her owners, musician's pass, and musical program in which the claimant is announced as violinist.

I do not consider the valuation placed by claimant upon his musical library to be excessive and I would, accordingly, recommend payment to him of the sum claimed therefor, together with $75 for personal effects, a total of $575, with interest thereon, at the rate of 5 per cent per annum, from the date of loss, viz., May 4, 1917, to date of payment. (Opinion No. 4.)

ERROL M. McDOUGALL,

OTTAWA, January 16, 1931. *Commissioner.*

CASE 1699--MRS. ANNIE PEACOCK

This claim arises out of the destruction of the merchant vessel *Clintonia* on August 1,1915, by enemy submarine. The claimant, as the sole surviving issue of William Knox, a British subject, and employed as fourth engineer aboard the vessel, now claims for the value of the personal effects of her father, which were lost when the vessel went down.

The claim is supplementary to an award already received by claimant for the loss of her father, upon whom she was dependent (Case 1,089). She received an award of $2,000 with interest. In that claim no mention was made of personal effects of the deceased for which claim is now made. The previous record establishes the loss of the vessel and the death of William Knox. Deceased left no will. The statement filed as to the value of the effects lost is quite reasonable and I would, accordingly, recommend payment to claimant, as sole heir-at-law of her father, of the sum claimed, viz., $520, with interest thereon, at the rate of 5 per cent per annum, from the date of loss, viz., August 1, 1915, to date of payment. (Opinion No. 4.)

ERROL M. McDOUGALL,

OTTAWA, February 6, 1931. *Commissioner.*

CASE 1701—HIRAM C. MITCHELL

This claim arises out of the destruction of the ss. *Stephano,* a British passenger vessel, by enemy action on October 9, 1916, off Nantucket Lights. The loss of the vessel, in the manner indicated, is established by Admiralty reports and has been the subject of awards made by the previous Commissioner (Case 1,033).

The claimant, a Canadian, was chief officer aboard the vessel and was accompanied by his wife and infant child. They were going to the United States to take up temporary residence and lost all their personal effects when the *Stephano* was sunk.

Claim is made for the loss of such effects. In the statement originally filed the value thereof was declared at the sum of $850 for Captain Mitchell, $650 for his wife, and $325 for those of the child. Subsequent to the hearing an affidavit was filed by Mrs. Mitchell, detailing the effects lost by her and her child and placing a valuation thereon of $2,111.60 for herself and $295.25 for the child. In his testimony, Captain Mitchell substantiated the value of his own property and spoke generally as to his wife's loss. It would appear from the record that the claimants did in fact have with them more than would be the case with ordinary travellers. Mrs. Mitchell had many of her wedding presents and a very valuable fur coat. She also had with her a quantity of household linen and effects. In addition to these claims for the loss of personal effects, Captain Mitchell makes claim for loss of wages for three months, wages $380. This item of the claim I cannot allow. I am of opinion that claimant has fully established his claim for $850, loss of personal effects, and I would recommend payment to him of this sum in lieu of the usual scale allowance for personal effects and solatium. As to Mrs. Mitchell's claim, I consider the valuation placed by her upon her effects somewhat high and, in the absence of an independent valuation, and in view of the valuation given by Captain Mitchell himself in his testimony, I think I am justified in reducing the amount by $500. I would, accordingly, recommend payment to her of the sum of $1,611.60. The claim for the child's effects is allowed, as stated, at the sum of $295.25.

To summarize, therefore, I recommend payment of the following sums:—

To Captain H. C. Mitchell..	$ 850 00
Mrs. H. C. Mitchell..	1,611 60
Captain Mitchell as legal guardian of his infant son..	295 25
	$ 2,756 85

with interest upon each of said sums, at the rate of 5 per cent per annum, in the case of Captain Mitchell from January 10, 1920, and in the case of Mrs. Mitchell and the child from October 9, 1916, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 31, 1930.

CASE 1703—MARJORIE E. LANGRIDGE, ET AL

This claim arises out of the destruction of the ss. *Skaraas* on May 23, 1918, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports.

Claim is now presented on behalf of the children of the late Arthur Ernest Langridge, a British subject, who was employed as chief steward aboard the vessel, and who lost his life when she went down. Deceased was British born, and resided in England. His widow continued to reside in England with her three children until her death, which occurred on April 22, 1923. After her death, a sister, Miss Jane Dunn, went to England and brought the children out to reside with her in Vancouver. The eldest child is now married and is also resident in Vancouver. The present claim is put forward by Miss Dun on behalf of the children.

From the foregoing recital of facts it will be seen that there is a total lack of jurisdiction as far this commission is concerned. For the reasons explained in Opinion No. 1, the date January 10, 1920, is constitutive of jurisdiction. Whatever claim these children had should have been advanced before the

British authorities. Counsel for claimants has directed my attention to a number of decisions by the previous Commissioner in which awards were made to claimant who had become resident in Canada subsequent to January 10, 1920. With the greatest respect, I regret that I cannot follow these decisions. The mere fact that unless a claim is paid by this commission, claimant will be without recourse, cannot, I consider, be advanced as a reason for its acceptance. It would appear from a perusal of the decisions referred to that the late Dr. Pugsley regarded the question as I do.

I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAW' February 18, 1931.

CASE 1704—MRS. RACHEL ANDERSON ET AL

This claim arises out of the destruction of the ss. *Cameronia* on April 15, 1917, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and letter received from her owners.

Claimant is the widow of the late John Anderson, a British subject, employed aboard the *Cameronia* as quartermaster, who lost his life when the vessel was destroyed. She now makes claim as well personally as on behalf of her two children, for the loss of her husband's life. Claimant and her children first came to Canada to reside in 1922, and they have lived in Vancouver ever since. She received £300 as War Risk Compensation, and is also in receipt of a pension of $24 per month from the British authorities.

From the foregoing recital of facts, it will be seen that there is a complete lack of jurisdiction in this commission to deal with the claim. For the reasons explained in Opinion No. 1, I regard January 10, 1920, as the latest date constitutive of jurisdiction.

My attention has been directed by counsel representing claimant to a number of decisions by the previous commissioner in which awards were made to British subjects who had come to Canada after the date in question. With the greatest respect, I regret that I cannot follow these decisions. A perusal of these cases indicates, moreover, that the late Dr. Pugsley did not share the view expressed therein. As I have said in another case, the mere fact that a claimant will have no recourse unless this commission accepts his claim, is not a sufficient reason to admit the claim.

I must, therefore, disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1705—HARRY D. RAYMOND

This case arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous Commissioners.

Claimant, a Canadian, was a member of the crew, and now claims for the loss of his personal effects, including a sextant, some cash and the usual solatium. He asserts his claim at the sum of $587.20.

The record reveals that one Harry Raymond was a member of the crew of the *Hesperian* and discharge papers produced by claimant identify him as

the individual referred to. He presented his claim in a very fair and straightforward manner and I see no reason to doubt the accuracy of his statements as to the value of the effects and cash which he lost and would award him the amount claimed. In this case, owing to the special circumstances, I consider claimant should not be limited to the usual scale awards indicated in Opinion No. 3.

I would, accordingly, recommend payment to the claimant of the sum of $587.20 with interest, as in the case of other seamen, thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, November 20, 1930.

CASE 1710—EDMUND E. MANNING

This claim arises out of the partial destruction of the British barque *William T. Lewis*, shelled by enemy submarine on September 2, 1915, 120 miles off the coast of Ireland. The vessel sailed with a cargo of lumber for the Admiralty, from Ebbitt, Puget Sound, at the end of March, 1915, bound for England. On September 2, about 7 p.m., an enemy submarine opened fire, damaging the ship seriously. Claimant was ordered to abandon the ship and took to the boats with the crew. He was then taken aboard the submarine, questioned, and then returned to his boats with directions as to his course to the Irish coast. Picked up by a Danish steamer he was later transferred to a British patrol boat and landed in Bantry Bay, Ireland. The captors compelled him to abandon all his personal effects, instruments, charts, etc.

The *William T. Lewis* was later towed into Bantry bay, in a waterlogged condition, and had been completely looted of all articles which had been aboard. Claimant remained with her when she was towed to England, where she was repaired and he resumed his command, remaining in charge until June 12, 1920. He now makes claim for the loss of his personal effects and nautical instruments to a value of $2,075, detailed list whereof has been filed of record and certified by him as being the fair value of such articles.

While there is no Admiralty report indicating the shelling of the *William T. Lewis* (probably because she was not destroyed) I am convinved that the story related by Captain Manning is true. Corroboration is furnished by Captain E. E. Tedford, General Manager, Canadian Merchant Marine, who has known claimant for many years. Captain Tedford was present in Bantry Bay when claimant was there landed, and had an opportunity to visit the vessel and talk with claimant. He declares that the vessel was very badly damaged and barely afloat. He confirms claimant's statement that nothing had been left aboard her and bears high testimony to the competency and character of the claimant. He finds the value of the articles listed as having been lost as reasonable with the possible exception of the first item of $850 for personal effects. He suggests a value of $650 which I am disposed to accept. I would, accordingly, conclude that claimant has established his case for the loss of his personal effects, nautical instruments, etc., to a value of $1,875, and I recommend payment to him of that sum, with interest thereon at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 14, 1931.

CASE 1713—JAMES DE YOUNG

This claim arises out of the destruction of the ss. *Carpathia* by enemy gunfire on July 17, 1918. The loss of the vessel, in the manner indicated, is established by Admiralty reports and has already been the subject of awards by the previous commissioner (Case 1042).

The claimant, a Canadian, alleges that he was aboard as a third class passenger and lost his personal effects and cash, which he values at $305. He is a seaman who had shipped out of Halifax in the summer of 1918 aboard the ss. *War Dance,* bound for Belfast, Ireland. Upon arrival he was sent to Liverpool and was returning home aboard the *Carpathia.*

The claimant related a very convincing story of the sinking of the vessel, with the loss of five lives, but was unable to produce any corroboration that he was aboard. Upon enquiry from another passenger aboard the vessel and who received an award (Case No. 1042), the circumstance of the loss of the vessel coincides so closely with the story told by the claimant, that I am convinced of the truth of his statements and that he did, in fact, lose his personal effects.

The amount claimed, $305, is not excessive, and I am disposed to accept his statement as to the value of the effects lost. I would, accordingly, recommend payment to the claimant of the sum of $305, with interest thereon at the rate of 5 per cent per annum, from July 17, 1918, date of the loss, to date of payment (Opinion No. 4).

ERROL M McDOUGALL,
Commissioner.

OTTAWA, November 20, 1930.

CASE 1718—MRS. THOMAS RAYWORTH

This claim arises out of the destruction of the ss. *Berwick Law* on December 3, 1917, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and certificate of the Registrar General of Shipping.

The late Thomas Rayworth, who died on June 30, 1930, was a British subject, resident in Canada before the war. That he was a member of the crew of the *Berwick Law* is evidenced by certificate of the Registrar General of Shipping. Before his death, claimant had put forward a claim for the loss of his personal effects, and the usual solatium, which claim is now being continued by his widow, to whom he was married on March 19, 1928. She has two small children and works in a restaurant to support them and herself.

The Declaration was never completed in this case, but all the elements necessary to arrive at an award are present, and I consider that claimant is entitled to recover the value of the personal effects lost by her husband. For the reasons expressed in Opinion No. 3, I would recommend payment to Mrs. Thomas Rayworth of the sum of $500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

CASE 1719—PETER BLAKE

This claim arises out of the destruction of the Belgian Ship *Bodnognat* on July 2, 1915, by enemy action. The claimant, Peter Blake, a Canadian, born in Montreal, was employed aboard as cook, and claims for the loss of his personal effects and cash. At the time of the hearing in Montreal, claimant had nothing but his own statement to substantiate the loss of the vessel and his presence aboard. He has since made up this deficiency by the production of certificates from the Belgian authorities proving the loss and his presence aboard in the capacity stated.

Claimant declares that on the date of the loss his ship was flying the Norwegian flag, when a German submarine appeared and fired two shots across the bows of the *Boduognat*. Under direction, claimant hauled down the neutral flag they were flying. The submarine came alongside and the crew were ordered into the boats. The ship's papers were taken at the point of revolvers and the vessel was sunk. The crew, including claimant, was picked up by a British torpedo boat. They had not been permitted to remove any of their effects from their ship.

Claimant makes claim for $400 value of his personal effects, and a sum of money amounting to $75. He has established his claim and has made a very modest demand. I am disposed to allow him the usual sum for loss of personal effects and solatium accorded to seamen aboard British merchant vessels, viz., $500 (Opinion No. 3). I would, accordingly, recommend payment to claimant of the sum of $500 with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CASE 1722—EDWIN SHAW

This claim arises out of the destruction of the ss. *Dundee* on January 31, 1917, and the ss. *Neepawa* on April 22, 1917, both by enemy action. The fact of the loss of both vessels, in the manner indicated, is established by Admiralty reports, and the presence of the claimant aboard as chief engineer, by his discharge book which has been produced.

Claimant is a British subject, born in England, who came to Canada in 1906, where he has since resided. He is now married and living in St. Catharines, Ont. He claims for the loss of his personal effects and solatium, in respect of both sinkings, and, moreover, asserts a claim for personal injuries sustained when the vessel went down. His total claim is for $1,500.

While the claimant did not appear before the Commission to substantiate his claims, being absent aboard a lake vessel, his discharge book furnishes evidence sufficient to base an award.

For the reasons explained in Opinion No. 3, I consider claimant entitled to an award for the loss of his personal effects and solatium in both cases. Inasmuch as the second torpedoing followed the first within such a short time, I am of opinion that the full amount for loss of effects should not be allowed as to the second occurrence. His claim for personal injuries cannot be maintained for want of evidence. The medical certificate produced indicates rheumatism which may have resulted from exposure, but he is declared to have suffered practically no permanent or partial disability.

I would, accordingly, recommend payment to claimant of the sum of $1,200, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1724—FRANK LEONARD

This claim arises out of the destruction of the *Anglo-Californian* on July 4, 1915, by enemy action off the Irish coast. The loss of the vessel, in the manner indicated is established by Admiralty reports and the presence aboard and loss of the life of claimant's brother, T. Leonard, is proven by certificate of the Deputy Shipping Master for the port of Montreal. He was employed aboard as a horseman.

Claimant now puts forward this claim on the ground of dependency, alleging that for many years, owing to an injury, he had been unable to work and had been supported by his deceased brother, who paid his board and lodging $6 per week in a boarding house where the brothers lived together. This fact is corroborated by the landlady who declares that claimant was ill and in fact dependent upon his brother. Both the claimant and his brother were Canadians, born in Montreal.

The medical evidence establishes the unfortunate physical condition of the claimant and permits of the inference that he was and is in fact incapable of supporting himself by his own efforts. There was, therefore, in fact dependency, not however resulting from any legal obligation. Claimant is 61 years of age and in destitute circumstances.

Applying the principles stated in Opinion No. 2, I am of opinion that claiman. has made out a case of dependency, and I would, accordingly, recommend payment to him of the sum of $2,500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 6, 1931.

CASE 1732—CAPT. ALBERT NICHOLL

This claim arises out of damage to the schooner *Bianca* by enemy submarine 100 miles south of Halifax, N.S., on August 24, 1918. She was subsequently towed into Halifax, badly damaged, after having been sacked by the enemy. The claimant alleges loss of personal effects valued at $1,428 and claims also for loss of time and doctors' bills incurred by reason of illness due to exposure. His total claim is stated at the sum of $2,594.

At the sittings of the Commission at Halifax, on October 7, 1930, it developed that the claimant was born in Newfoundland, and at the time of the loss was a citizen of that Dominion. He filed claim with the Newfoundland Reparations Commission upon the same basis as his present claim and received an award of $600 which was duly paid to him, as appears from letter from the Commissioner for Reparations, Newfoundland, filed of record. He admits that the claim so dealt with covers the items now claimed before this commission but complains that the amount awarded was inadequate.

In these circumstances, I must find that this commission is without jurisdiction to deal with the claim. Claimant was not a Canadian, and his claim has been dealt with by the authority competent to hear it. The claim as filed must, accordingly, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 5, 1930.

CASE 1733—HECTOR R. ARCHER

This claim arises out of the destruction of the ss. *Hesperian* by enemy action on September 4, 1915. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by the previous Commissioners.

The claimant was a waiter aboard the vessel and has produced his certificate of discharge which establishes his presence aboard. He makes claim for loss of personal effects to the value of $500.

It appears from his evidence that he is a British subject, born at Liverpool, England, and came to Canada for the first time with the intention of residing in 1917.

For the reasons set forth in Opinion No. 1, the claimant has, I consider, made out his claim and is entitled to an award. I would, accordingly, recommend payment to him of the sum of $500, for loss of personal effects and solatium (Opinion No. 3) with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 24, 1931.

CASE 1739—CAPT. GEORGE L. HAYES

This claim arises out of the destruction of the ss. *Annapolis* on April 19, 1917, by enemy action, off the west coast of Ireland. The loss of the vessel, in the manner indicated, is established by Admiralty reports.

Claimant's presence aboard, as master of the vessel, is proven by certificate from the owners filed of record. He makes claim for the loss of his personal effects and nautical instruments in the sum of $950.

Claimant is a British subject, born in England. He came to Canada to reside permanently in 1921 and although he had sailed to and from Canada prior to that date, it cannot be said that he had acquired Canadian domicile or even residence before 1921.

In these circumstances, for the reasons expressed in Opinion No. 1, I am without jurisdiction to grant an award in this case. The latest date constitutive of jurisdiction is January 10, 1920. I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

CASE 1757—LEONARD J. BIGG

This claim arises out of the destruction of the ss. *Empress of Midland*, on March 27, 1916, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports, and her loss has been the subject of an award by the previous commissioner (Case 1457).

The claimant, a British subject, born in England but resident in Canada since August, 1907, was employed aboard the *Empress of Midland* as third engineer, as appears from certificate of the chief engineer filed of record. Claimant lost his personal effects when the vessel went down, and now makes claim for the value thereof, which he states at the sum of $575. While claimant did not appear in person, the documents produced are sufficient to permit of an award in his favour. The amount claimed falls within the limits of the usual scale awards referred to in Opinion No. 3.

I would, accordingly, recommend payment to claimant of the sum claimed, $575, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 24, 1931.

CASE 1767—MRS. C. A. ROBERTSON

This claim arises out of the destruction of the ss. *Hogarth* on June 7, 1918, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports, and her loss was the subject of an award made by the previous commissioner (Case 1096).

Claimant is the widow of the late James Robertson, a British subject, resident in Scotland, who was employed aboard the *Hogarth* as first engineer, and who lost his life when the vessel was destroyed, as appears from the certificate of the Registrar General of Shipping filed of record.

The claimant came to Canada for the first time in May 1920, and went to reside with her mother-in-law (claimant in Case 1096 above referred to) at Vancouver, where she remained until recently. She is now in Scotland and has been unable to return to Canada through illness.

From the foregoing recital of facts, and for the reasons given in Opinion No. 1, it will be seen that this Commission has no jurisdiction to entertain the claim. Claimant, while a British subject, was not resident in Canada on or before January 10, 1920. It is unnecessary to repeat the comment made in similar cases involving the same question of jurisdiction (Cases 1704, 1703, and 1207). I am compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1770—ESTATE OF A. L. LINTLOP

This claim arises out of the destruction of the ss. *Morwenna* on May 20, 1915, by enemy action off the coast of Ireland. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of awards made by the previous Commissioner (Case 1057).

Atherton L. Lintlop, since deceased, is said to have been assistant steward aboard the vessel at the time of her loss. He was a Canadian and died on November 14, 1922, as appears from Letters of Administration of his estate filed of record. In virtue of said letters, the brother of the deceased was appointed Administrator and has carried on his functions as such.

Claim is now made on behalf of the estate for the value of the personal effects of the late A. L. Lintlop, lost when he was compelled to leave the ship, the amount of the claim being unstated.

The record is not entirely satisfactory as to the presence of the deceased aboard at the time of the loss, but I am disposed to accept the evidence adduced as establishing this fact.

In these circumstances, for the reasons expressed in Opinion No. 3, I am of opinion that the deceased became entitled to the usual scale allowance for loss of personal effects and solatium. The appointment of an Administrator to his estate has been proven and I would, accordingly, recommend payment to the estate of A. L. Lintlop, James Lintlop, Administrator, of the sum of $500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 5, 1930.

CASE 1771—JACOB MOSHER

This claim arises out of the destruction of the United States cargo steamer *Lake Eden* torpedoed and sunk by enemy submarine on August 21, 1918. These facts are established by letter from the captain of the vessel, A. S. Kimball, to the sister of the deceased, read into her deposition and is confirmed by record of the loss of the vessel appearing in the *Syren*, mercantile war loss book.

The deceased, who lost his life, at the time of the loss of the vessel, was employed aboard as second cook. He was a Canadian, born in Halifax, and his father, who now makes claim as a dependent, is also a Canadian. Letters of administration have been filed of record, under which the claimant, Jacob Mosher, and Dennis Williams were appointed administrators. Claim is made for loss of personal effects and the claimant, moreover, asserts a claim in the sum of $2,000 for the loss of his son, upon whom he was partially dependent.

I am of opinion that dependency has been established, at least, in part. It is difficult to say, from the record, how much the deceased, who was only a lad of 19, contributed to his father's support, but I think it fair to say that he did contribute and would have continued to contribute a portion of his wages to his father. The claimant is 72 years of age, in necessitous circumstances and, I believe, could reasonably have looked to his deceased son for partial support.

Having regard to all the circumstances and for the reasons set forth in Opinion No. 2, I do not find the sum claimed $2,000 excessive, and I would award to Jacob Mosher this sum for the loss of his son, with interest at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4). In addition, I consider that the estate of the deceased, as represented by the administrator, is entitled to the usual allowance for loss of personal effects, viz. $250, with interest thereon, at the rate of 5 per cent per annum, from August 21, 1918, to date of payment. To summarize, I recommend the following payments:—

(*a*) To Jacob Mosher $2,000 with interest as stated.

(*b*) To estate late Alexander Mosher $250 with interest as stated.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 5, 1930.

CASE 1772—MRS. W. STERLING

This claim arises out of the loss of the ss. *Sharon* which sailed from Sydney, N.S. on November 9, 1914, and was never heard from thereafter. The claimant's husband, William Sterling, aged 23, sailed aboard her, as fireman. Claimant now claims $2,300 for the loss of her husband's life and the value of his personal effects.

The cause of the loss of the *Sharon* has never been explained. Various claims were presented to the previous commissioners by dependents of seamen who lost their liver aboard her. In every instance, however, these claims were disallowed (Cases 1551 *et seq.*) because no enemy action had been established. I fear that I must follow these decisions in the absence of further evidence.

The claim must therefore be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 18, 1930.

CASE 1788—WILLIAM F. SPURR

This claim arises out of the destruction of the ss. *Port Dalhousie* on March 19, 1916, by enemy action off Kentish Knock Lightship, England. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports, and has been the subject of awards made by the previous commissioner.

Claimant was chief officer aboard her at the time. He appeared before Dr. Pugsley and made claim for personal injury and loss of personal effects. He was finally awarded by Mr. Friel a sum of $2,605 (Case 1167) for injury to health, loss of personal effects, and solatium.

He appeared before the present Commission at Yarmouth and now claims an additional sum of $3,500 for personal injuries on the ground that he did not know at the time of the previous hearing the extent of his injuries and further that Dr. Pugsley declared that he would give him a sum of $5,000 for his injuries. These statements are not entirely consistent, but although he was advised at the time of the hearing that this Commission could not reopen the case since it had already been disposed of, his evidence was taken in case reconsideration of the matter should be had.

Claimant was sixty years of age at the time of the loss of the vessel and undoubtedly did suffer damage as a result of his experiences. Upon referring to the record, I find that the previous Commissioner had before him the entire circumstances and, having dealt with the claim on its merits and made an award, I am now unable to deal with the case. The present claim cannot be regarded as a supplementary claim, because no new evidence has been brought forward. The medical affidavits, while they indicate a disability, merely furnish an inference that the present condition of the claimant has become aggravated by reason of his experiences at the time the vessel was lost. With great regret, I cannot now come to claimant's assistance to increase an award made by Mr. Friel, merely because claimant does not consider that it was adequate.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 26, 1930.

CASE 1798—C. D. MACKENZIE

This claim arises out of the destruction of the ss. *Carthaginian* in June, 1917, by enemy action. The loss of the vessel, in the manner indicated, is established by Admiralty reports.

Claimant, a British subject, who came to Canada in 1909, was a quartermaster aboard the *Carthaginian* at the time of her loss, as appears from his discharge certificate. At the time the vessel was hit by a torpedo he was aloft, when the rigging gave way and he fell to the deck on his back and head. Apparently no immediate injury resulted to claimant. He was not laid up and went back to sea. He carried on until Christmas 1917, when trouble with his eyesight developed and he was compelled to give up his calling as a seaman. The medical certificate annexed to his declaration declares that he suffers partial loss of vision and is incapacitated to the extent of 50 per cent in his calling and 60 per cent in the general labour market. It is declared, upon the history furnished by claimant, that this condition results from the injury received by claimant aboard the *Carthaginian*. Claimant claims for personal injuries in an unstated amount and for loss of personal effects, a sum of $300.

A difficulty arises as to the precise status of the claimant. It appears from the documents on file that claimant was a naval reservist and served aboard the *Carthaginian* as "Quartermaster and Gunner," his official number being

391S. He was discharged on October 3, 1917—that i., after the sinking of the vessel—as unfit for further service, defective vision, injury received when ss. *Carthaginian* was sunk by enemy action. The *Carthaginian*, while a merchant vessel, was armed for defence. Upon his application for pension the following ruling was made by the Chief Imperial Pension Division:—

"I would further state that service in the Merchant Marine Gunnery Unit was rendered under Board of Trade articles and compensation for disablement is not a matter for our Department as his service was on ships armed for defence, not offence."

It will thus be seen that claimant, while in a sense employed as an enlisted man, cannot be regarded as a full naval rating, since he is not eligible for pension.

In these circumstances I have decided, in the exercise of the discretion conferred upon me, to disregard any technical disabilities which may exist in regarding claimant as a member of the Merchant Marine. I, therefore, consider that he is entitled to an award not only for the loss of his personal effects, which for the reasons stated in Opinion No. 3, I would fix at the sum of $500, but also for the personal injuries sustained. The record is not entirely satisfactory as to the connexity between the injury and the loss of vision but the facts stated and the justifiable inferences therefrom support an award. In the special circumstances of the case I, accordingly, recommend payment to claimant the sum of $2,500, including loss of personal effects, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Oponion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1813—MRS. CHRISTINA FERRIS

This claim arises out of the destruction of the ss. *Coronda* on March 13, 1917, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established as appears from decision 1050, in which the present claimant received an award for the loss of her sons's life, upon whom she was dependent.

The present claim is supplementary to the previous decision, and is asserted for the loss of the personal effects which claimant had supplied to her son for the voyage in question. It appears from the earlier record that no claim for loss of personal effects was, in fact, made. The amount now claim is $640.

For the reasons expressed in Opinion No. 3, I consider claimant entitled to the usual award for loss of personal effects, viz. $250. Her son was only 15 years of age, but, in the circumstances, it is reasonable to suppose that he would have the usual seaman's outfit. I would, accordingly, recommend payment to claimant of the sum of $250, with interest thereon, at the rate of 5 per cent per annum, from March 13, 1917, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1819—JAMES A. MARSHALL

This claim arises out of the destruction of the ss. *Middlesex* on May 6, 1917, by enemy action, on a voyage to Australia. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports.

The claimant, a British subject, came to Canada to reside in May 1921. His presence aboard the vessel is established by his discharge book. He makes claim for the loss of his personal effects in the sum of $200.

Applying the principles stated in Opinion No. 1, this commission is, unfortunately, unable to entertain the claim. Claimant only came to Canada in 1921, and was not, therefore, a Canadian national on the last date constitutive of jurisdiction before this commission, viz., January 10, 1920. I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1822—ESTATE OF L. A. FRALIC

This claim arises out of the destruction of the United States cargo steamer *Alamance* by enemy action on February 5, 1918. The fact of the loss of the vessel, in the manner indicated, is established by decision of the United States Mixed Claims Commission (Case 549).

It is shown that the vessel, while armed, was not engaged in warlike operations, but was purely a cargo carrier. It is further certified that Laurier Arnold Fralic, then aged 21 years, a Canadian born but who had applied for naturalization in the United States, was employed aboard the vessel as quartermaster, and in receipt of a salary of $140 per month. When the vessel was destroyed, with other members of the crew, L. A. Fralic took to the boats, but as the result of the boat he was in breaking apart he was precipitated into the water and lost his life. These facts have been satisfactorily established.

At the time of his death the deceased was unmarried. He left surviving him his father, Mansfield Fralic, then aged 61 years; three sisters, namely, Jean E., born July 2, 1884 (now Mrs. Edgar Sarty), Enid C., born June 28, 1891, and Evadne K., born March 13, 1899, all of whom were and are, as far as the records go, Canadians. The deceased also left surviving him two brothers, William, about ten years his senior, and Hector, whose age is unstated. A very distressing picture has been drawn of the extreme want and poverty in which this family existed prior to the death of the young son and brother. The father was ill and suffering, one sister was a cripple. The mother had died some time before and the eldest sister, Jean, kept house. The father, Mansfield Fralic, for the last few years of his life was unable to work continuously to support his family and, while he had a very modest position as postmaster, was unable to meet the exigencies of the situation. He died on May 30, 1926, having survived his deceased son about eight years.

Claim is now asserted by the daughter, Jean E. Sarty, in her quality of administratrix of the estate of the late Mansfield Fralic, her father, for the loss of the life of the late A. Fralic. The claim is based upon the ground of dependency of the father and his three daughters for support, and is stated at the large sum of $75,000. A further amount of $1,097 is claimed for the loss of the deceased's personal effects, which, presumably, is made on behalf of his estate, as to which it does not appear that administration has been taken out. Apparently, precisely similar claims have been executed and filed by each of the sisters, claiming for the death of their brother.

In support of these claims it is alleged that deceased from the time he began to work in 1916 regularly sent home contributions for the support and maintenance of his family. The affidavits filed go to show that this young man was of high character, industrious, and ambitions to earn a high position for himself as a seaman. He was greatly attached to his family, and is said to have declared that he soon hoped to be earning enough to lighten their burdens. At the time of his death, it is alleged, he was contributing one-half of his salary, or $70 per month, to his family, without which contribution they would have been in dire want.

There appears to be some misapprehension in the minds of these claimants as to the grounds upon which their claims are advanced. The contributions made by the deceased, clearly were made to his father for the purpose of assisting him in maintaining his family. The obligation of a father to maintain his family is clear, but there is no legal obligation upon a brother to support his brothers or sisters. They were not, in law, dependent upon him. However distressing may have been their circumstances, they could only look to their father for support, and the contributions made by their brother, as far as they are concerned, were merely the fulfilment of a moral and very proper obligation. Again, it appears from the record that the old brother, William, was contributing an equal sum to his father's support; that the father himself was earning some money, though perhaps very little. Nothing has been shown as to any contributions by the remaining brother, Hector. It will be seen, therefore, that the distressing picture put before this commission has lost nothing in the telling. To follow counsel for the claimants into the labyrinth of speculative amounts which it was expected deceased would or might contribute, would not be profitable. It would only lead into a maze of impossible calculations.

The claim for loss of personal effects is quite unusual. It would hardly be expected that a young seaman of 21 would have with him, particularly under the conditions of poverty of his family, two dress coats and two dress suits valued at $245, and yet these are items put forward in the claim.

On the whole, therefore, relying upon the principles stated in Opinions No. 2 and 3, I consider that claimants, in so far as they advance claims for themselves, have failed to establish such dependency as would permit of an award. That some loss was sustained by the father of the deceased is clear but as he is not now a "surviving dependent", under section (1) of the First Annex to Part VIII of the Treaty of Versailles, no award can be made to his estate. The estate is not dependent upon the deceased. There is no pecuniary loss cognizable in law upon which an award can be based.

As to the personal effects, I would allow to the estate of the deceased, L. A. Fralic, the usual amount accorded a seaman in the merchant service, viz., $250 (Opinion No. 3). I, accordingly, recommend payment to the estate of Laurier Arnold Fralic the sum of $250 with interest thereon, at the rate of 5 per cent per annum, from February 5, 1918, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1851—THOMAS J. NOLAN

This claim arises out of the destruction of the ss. *Telena* on April 21, 1917, by enemy action, and an attack by enemy submarine upon the ss. *Oldfield Grange* on June 7, 1917. The facts of the loss of the first vessel, and the attack upon the second, are established by Admiralty reports. The *Oldfield Grange* was beached after the attack, but the crew was compelled to abandon her and lost their personal effects.

The claimant, a British subject, born in Ireland, but resident in Canada since October, 1919, was employed aboard both vessels as wireless operator, as appears from ... certificate of discharge filed of record. He claims for the loss of his personal effects and cash which he had with him, a total sum of $960, and also alleges personal injuries sustained on the occasion of the sinking of the *Telena* for which he claims $200, covering injuries and medical expenses in connection therewith. The claim for personal injuries cannot be entertained in the absence of medical evidence.

Claimant received from the British authorities a sum of $250 towards the loss of his personal effects.

Having regard to the reasons stated in Opinion No. 3, I consider claimant entitled to an award for the loss of his personal effects, and the usual solatium, but consider that credit must be given for the amount received from the British authorities. I would, therefore, allow the claim as stated, less the sum received, and would recommend payment to claimant of the sum of $710, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 24, 1931.

CASE 1855—WILLIAM BOWDEN

This claim arises out of the destruction of the ss. *Oriflamme* on November 25, 1917, by enemy action. The loss of the vessel, in the manner indicated, is established by Admiralty reports.

Claimant is a British subject by birth and came to Canada to reside in October, 1919. He was an A.B. aboard the vessel and at the time the vessel was struck by torpedo, or hit a mine, was asleep in his bunk in the forecastle head. The vessel was an oil carrier and caught fire after the explosion. The crew abandoned the ship and it was only discovered several hours later, upon a muster, that claimant was missing. He was finally rescued from the ship in the evening in an unconscious condition and taken to the Royal General Hospital, Portsmouth, where he lay unconscious for four days.

Claimant has produced his discharge certificate which establishes that he was aboard at the time. He was seriously wounded and burned and in spite of several successful operations, still carries a terrible facial disfigurement as a result of his experiences. He received some compensation from the British Board of Trade, 10 shillings per week up to April 17, 1923, and an advance of £50 which was supplemented by a final award in August, 1923, of $352.50 (£75). This is all that claimant has ever received and the awards were apparently made under the War Risk Compensation Scheme.

The medical evidence discloses that by reason of the facial wounds claimant has suffered damage to his masticating powers, due to tearing and scarring of muscles. As a result he suffers from indigestion and is highly neurotic. This condition would appear to result directly from his injuries.

He claims for personal injuries a sum of $3,000, and also for the loss of his personal effects. In the claim as originally filed he claimed $2,500 for personal injuries and $196.24 for loss of personal effects. It is evident from the record that this claimant has not received reparation for his injuries, inasmuch as the British authorities declined to hear his case because he was a resident in Canada.

I would, accordingly, recommend payment to claimant of the sum of $2,500 for personal injuries and the amount claimed for loss of personal effects, $196.24, making a total of $2,696.24, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 4, 1931.

CASE 2183—JOHN MILLS

This claim arises out of the destruction of the cargo steamer *White Head* by enemy action in Suda bay on October 16, 1917. The loss of the vessel, in the manner indicated, is established by Admiralty reports and the claimant's discharge book, filed of record, clearly proves that he was aboard at the time of the destruction.

The claimant is a Canadian, born at Halifax, N.S., on December 26, 1881, whose occupation is that of a marine fireman.

There has been filed a Statutory Declaration by the claimant to the effect that he lost his personal effects to the value of $160 whilst serving as a fireman on the ss. *Whitehead* at the time she was torpedoed and sunk.

For the reasons explained in Opinion No. 3, I consider claimant entitled to receive the usual scale award for loss of effects and solatium, amounting to $500. I would, accordingly, recommend payment to claimant of the sum of $500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, October 15, 1930.

CLASS "C"

Losses to Civilians, Arising Out of the Destruction of the SS. "Lusitania", SS. "Hesperian" and Other Steamers

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54 CASES

CLASS "C"

LOSSES TO CIVILIANS, ARISING OUT OF THE DESTRUCTION OF THE SS. "LUSITANIA", SS. "HESPERIAN" AND OTHER STEAMERS

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ ct
792	Mrs. Emilia C. Davis	Loss of parcel on SS. *Lusitania* sunk May 7, 1915.	100 00	100 0
793	Estate of Mrs. Eliz. Jones	Estate claims for loss of daughter's life on SS. *Lusitania* sunk May 7, 1915.	5,000 00	Disallowed.
798	Louis Strauss	Claim is for loss of life on SS. *Lusitania* sunk May 7, 1915	Unstated	Withdrawn.
799	F. W. Clarke	Claims for personal injury, loss of life of wife, loss of effects, loss of wife's effects, passengers on SS. *Lusitania* sunk May 7, 1915.	50,000 00	500 00 1,000 00
801	E. V. Herbert	Claim for loss of life of wife	4,000 00	Disallowed.
		Loss of wife's effects on SS. *Lusitania* sunk May 7, 1915.	1,529 50	
890	Mrs. Agnes Warner	Claims for loss of son's life on SS. *Lusitania* sunk May 7, 1915.	775 00	775 00
		Loss of effects	475 00	475 00
905	Rev. Canon A. E. Burgett	Loss of parcel on SS. *Hesperian* sunk Sept. 4, 1915.	100 00	100 00
973	W. E. Ransom	Supplementary claim *re* injury on SS. *Hesperian*, sunk Sept. 4, 1915 (Old case 973).	550 00	Disallowed.
983	Mrs. Mary Cownley	Loss of husband's life on SS. *Hesperian* sunk Sept. 4, 1915.	25,000 00	3,000 00
		Loss of his effects	200 00	
1211	Harry W. Adams	Re-opening of an award *re* interest on claim for loss on SS. *Stephano* sunk Oct. 8, 1916.	Interest on 2,883 88	Interest allowed from Oct. 8, 1916 to Jan. 9, 1920.
1227	The Boeckh Co., Ltd	Loss of merchandise on different steamers.	512 48	Withdrawn.
1229	Hambly & Wilson	Loss of merchandise on different steamers.	1,968 80	Withdrawn.
1585	A. B. Barnes	Accepted by U.S. Mixed Claims Commission.	Unstated	Withdrawn.
1606	Mrs. L. Rogers and daughter, and the Estate of late James R. Rogers.	Loss of husband, etc., on SS. *Lusitania* sunk May 7, 1915.		
		Mrs. Rogers claims	50,000 00	15,000 00
		Miss Rogers claims	25,000 00	20,000 00
		Estate claims	6,000 00	3,000 00
1607	Mrs. Mary Brooke	Loss of effects on SS. *Hesperian* sunk Sept. 4, 1915.	7,800 00	6,379 00
1608	Mrs. Edith Crossley	Claims for loss of life on SS. *California* sunk Feb. 7, 1917.		
		Loss of life	10,250 00	1,500 00
		Loss of effects, etc	2,250 00	
1610	Mrs. A. H. Miller	Loss of deceased husband's effects on transport May 5, 1918.	482 00	437 00
1615	Mrs. Frances Wilde	Loss of deceased husband's effects on transport June 1, 1918.	250 00	250 00
1625	Rev. J. A. Beattie	Claims for ill health owing to loss of wife on SS. *Lusitania* sunk May 7, 1915.	Unstated	1,000 00
		Expenses in connection	1,597 59	1,597 59
1626	Mrs. Alice Griffiths	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4, 1915.	3,340 88	1,500 00
1628	Robert Maharry	Claim *re* subsequent death of wife, sinking of SS. *Hesperian* Sept. 4, 1915.	2,600 00	1,700 00
1638	Charles Kennaugh	Claims for effects lost on SS. *Hesperian* sunk Sept. 4, 1915.	1,985 60	1,500 00
1644	Edward Hughes	Claims for loss of effects on SS. *Carpathia* sunk July 17, 1918.	1,500 00	1,000 00
1650	Lt. Col. W. H. Belson	Claims for effects lost on SS. *Arabia* sunk Nov. 6, 1916.	600 00	600 00

Case	Claimant	Nature of Claim	Amount Claimed	Decision
			$	$
1660	Mrs. Bessie Lafleur	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4, 1915.	885 10	885 10
1665	Mrs. Sarah H. Turner	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4, 1915.	2,500 00	1,250 00
1665	Mrs. Wm. Wrathall	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	857 92	500 00
		Medical expenses re injury to child	150 00	150 00
1669	George McNab	Claims for personal injury and loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	745 00	445 00
1678	Mrs. M. A. Matthews	Claims for loss of son's life on SS. *Lusitania* sunk May 7th, 1915. See also Case 819.	1,000 00	2,500 00
1681	Mrs. Margaret Blyth	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	699 00	624 00
		Also for personal injury	4,500 00	3,000 00
1692	Mrs. Annie A. Palmer	Claims for loss of husband's life on SS. *Sussex* beached March 24th, 1916.	50,500 00	20,000 00
1698	Mrs. H. C. Gracey	Claims for injury whilst passenger on SS. *Olympic* by reason of a depth bomb.	2,500 00	Disallowed
1702	Neil J. McAllister	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	216 32	216 32
1706	G. S. Abbott	Claims for loss of effects on SS. *Andania* sunk Jan. 27th, 1918.	236 50	236 50
1712	Miss Mabel Campbell (Mrs. M. Dickie).	Claims for loss of sister's life on SS. *Lusitania*. Case disposed of under Case 833.	Unstated	Disallowed
1716	Andrew Semple	Claims for loss of wife and child on SS. *Lusitania* sunk May 7th, 1915	Unstated... 400 00	Withdrawn
		Also for effects lost.		
1725	Alphonse Racine Ltd	Claims for loss of merchandise on numerous steamers.	18,840 01	10,571 08 / 8,261 16
1726	Wm. J. Hunter	Claims for loss of brother's life on SS. *Lusitania* sunk May 7th, 1915.	5,000 00	
		Loss of effects on behalf of estate	6,155 00	2,500 00
1728	Miss L. M. Goddard	Claims for loss of father on SS. *Empress of Ireland* May 29th, 1914.	Unstated	Disallowed
1737	Henry Richey (Danville Mfg. Company).	Claims for merchandise lost on SS. *Cymric* sunk May 8th, 1916.	506 52	506 52
1738	E. T. Bartlett	Claims for personal injury on SS *Lusitania* sunk May 7th, 1915.	42,000 00	12,000 00
		Loss of effects	750 00	750 00
1746	L. B. Young	Claims for personal injury on SS. *City of Vienna* wrecked.	15,000 00	Disallowed
		Loss of effects	1,250 00	
1753	Mrs. E. M. Batstone	Claims for loss of household effects on unnamed vessel March 1918.	5,110 00	2,000 00
1773	J. Ernst & Son, Ltd	Claims for cargo lost on SS. *Stephano* sunk Oct. 8th, 1916.	649 00	649 00
1787	Arthur E. Jenkins	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	300 00	300 00
1790	A. de M. Mellin *et al*	Claims for loss of wife's and own effects on SS. *Leinster* sunk Oct. 10th, 1918. Own effects.	304 50	304 50
		Wife's effects	1,930 00	1,930 00
1791	R. W. Lockwood	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	514 50	514 50
1792	G. A. Scott	Claims for parcel lost on SS. *Arabia* sunk Nov. 6th, 1916.	250 00	250 00
1794	S. J. Juffs	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	911 00	911 00
1815	Mrs. Jean Cheret	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	475 00	475 00
1817	Mrs. E. Adcock	Claims for loss of effects on SS. *Hesperian* sunk Sept. 4th, 1915.	1,000 00	500 00
1852	Sydney Elliott	Claims for loss of money on SS. *Arabic* sunk Aug. 19th, 1915.	30 00	30 00
1863	R. J. Frizzell	Claims for loss of wife's life and effects on SS. *Leinster* sunk Oct. 10th, 1918.	Unstated...	Disallowed
1944	Thomas Rainey	Claims for loss of effects on SS. *Governor* sunk March 14th, 1917, also for personal injury.	200 00	Disallowed

CASE 792—MRS. EMILIA C. DAVIS

This claim arises out of the destruction of the ss. *Lusitania* on May 7, 1915, by enemy action, in circumstances which are well known.

Claim is made for the value of personal effects to an amount of $100 which claimant had entrusted to her niece, Miss Kathleen Kaye, who was proceeding to England as a passenger aboard the vessel. The items comprised in the claim consist of a dress, which claimant states was worth from $70 to $80, and other articles of feminine apparel, which she was sending to her sister in England. It is declared that Miss Kaye received compensation for her own losses in England.

The evidence in support of the claim is very meagre and consists of the testimony of the claimant. I was, however, impressed with her honesty and good faith and I am disposed to accept her story.

I would, accordingly, recommend payment to claimant of the sum of $100, with interest thereon, at the rate of 5 per cent per annum from the date of loss, viz., May 7, 1915, to date of payment. (Opinion No. 4.)

ERROL M. McDOUGALL,

OTTAWA, January 16, 1931. *Commissioner.*

CASE 793—ESTATE OF MRS. ELIZABETH JONES

This claim arises out of the destruction of the ss. *Lusitania* on May 7, 1915, by enemy action, in circumstances which are well known.

The late Mrs. Elizabeth Jones (now represented by the Royal Trust Company under Letters of Administration) died on or about April 25, 1922, in England, where she had gone to reside. She had previously been a resident of Canada for some thirty-two years. Claim was presented by her for the loss of the life of a daughter, Margaret Druller Jones, a trained nurse, who was a passenger aboard the *Lusitania*, accompanying a patient to England, Mrs. James Wakefield. The claim while referred to in the previous report was not dealt with because claimant did not appear. That Miss Jones lost her life when the vessel went down is clearly established by communications received from Mrs. Wakefield, who also suffered injuries. She identified the body of Miss Jones as one of the victims of the disaster. The claimant survived her daughter some seven years and evidence has been made by another daughter of Mrs. Jones, Mrs. Mary Jones Lucas, that the deceased sisted did contribute to the support of her mother, but the evidence of the degree of dependency is far from satisfactory. The claimant, who had been a widow for many years, was, for the remaining years of her life, supported by her remaining children. The late Miss Jones exercised her profession in Honolulu and is said to have been in receipt of remuneration amounting to from $35 to $40 a week and her board. Whether this employment was continuous is not made out.

Applying the principles stated in Opinion No. 2 regarding death cases, it is essential that dependency be shown. I know of no principle of law which would give to the estate of a deceased person a claim arising out of the death of the person upon whom the decendant may have been dependent. While claimant may have been partially dependent upon her daughter, her estate certainly is not. Nor does the Treaty of Versailles create any better right. Under Section (1) of the First Annex to Part VIII, with which we are directly concerned, damage in cases of death is allowed to surviving dependents. The fact that for a time deceased was a surviving dependent, does not confer that quality upon her estate. It is clear, therefore, that the claim presented in this case fails for want of proof of dependency. It must, accordingly, be disallowed.

ERROL M. McDOUGALL,

OTTAWA, February 3, 1931. *Commissioner.*

CASE 798—LOUIS STRAUSS

This claim arises out of the destruction of the ss. *Lusitania* on May 7, 1915, by enemy action in circumstances which are well known.

Claim is advanced by the sole executor under the last will and testament of the late Julius Strauss who lost his life in the destruction of the vessel.

This claim was disallowed by the previous commissioner as it had not been pressed. Attorneys representing the Executor were notified to appear before the commission at its Toronto sittings on Tuesday, November 4, 1930. A letter was received advising that as "we are unable to show any dependency in this case so feel we will not go any further in the matter."

This case is therefore considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 799—F. W. CLARKE

This claim, as its docket number will indicate, was filed with the previous commissioner but was not dealt with because the claimant did not appear and could not be located. The claim has since been renewed a' ' the claimant appeared before the present Commissioner at Montreal. He put forward a claim in the first instance for the loss of his wife's life when she was a traveller aboard the *Lusitania*. The amount claimed was £10,000 filed with the British authorities.

At the hearing before this commission the claim was restricted to impairment of claimant's health through shock due to his wife's death, and loss of personal effects, the total amount being left unstated. Claimant produces his marriage certificate establishing his marriage to deceased. There were two children born of the marriage, aged respectively three years and one and one-half years at the time of their mother's death. They had remained in England with claimant's sister, with whom they continued to reside after their mother's death.

Claimant alleges that the shock and grief of his wife's death completely unnerved him and brought him into a state of nervous collapse, from the effects of which he took four years to recover. He lost his position with the Mortimer Company of Ottawa due to this condition. He had been employed as a salesman earning from $1,400 to $2,000 per annum. He is unable to bring forward any medical evidence to substantiate his statements in this respect because both the physicians who attended him are now dead. The evidence *re* loss of personal effects also rests entirely upon claimant's statement. The amount is placed at $200 for a steel cabinet trunk, presumably the property of his wife, and $750 value of a fur coat belonging to claimant which his wife was taking with her. The coat, while not new, is declared to have been in good condition and to have cost $750 when purchased.

In this state of the record, with the very meagre evidence in support of the claim, it is difficult to arrive at an assessment of the damage sustained. I am satisfied that claimant's health was temporarily impaired as the result of shock and grief at the death of his wife leaving him with two infant children, and I consider he should receive an award therefor. That some loss was also sustained through the loss of personal effects also seems clear, but I am left to speculate as to the amount. In these circumstances I am disposed to make a lump sum award to claimant of $1,500 on both heads of damage, with interest upon $500, at the rate of 5 per cent per annum, from the date of loss, May 7, 1915, and upon the balance from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 10, 1931.

CASE 801—E. V. HERBERT

This claim, as its docket number will indicate, was submitted to the previous Commissioner and was disallowed because claimant was incapable of producing his marriage certificate. Claim is asserted for the loss of the life of claimant's wife on the *Lusitania* aboard which vessel she was listed as a second class passenger.

Claimant appeared before the Commission at its Windsor sittings and was advised that the only remaining element of proof required was a certified copy of his marriage certificate. Although he has since gone to England, as appears from his letter to the Commissioner of recent date, he is still unable to produce such certificate. He alleges marriage to his deceased wife in England, and I should think there would be no difficulty in obtaining a certificate thereof.

In the absence of such certificate, or other evidence establishing the marriage, I am, very regretfully, compelled to follow the decision of the previous commissioner. The claim must, accordingly, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 5, 1931.

CASE 890—MRS. AGNES WARNER

This claim, as its docket number will indicate, was filed with the previous commissioner, but was not dealt with because claimant could not be located. The record has now been completed by the production of documents substantiating the facts.

The claim arises out of the destruction of the ss. *Lusitania* on May 7, 1915, in circumstances which are well known. Claimant is the mother of the late Tertius Selwyn Warner, a British subject, born in England but resident in Canada long previous to the war. He was employed at London, Ont., as golf professional, and contributed to the support of his mother who was also resident in London for some years. She is now in England.

That deceased was a passenger aboard the vessel and lost his life when she went down, is proven by certificate of Cunard Steamship Company, Limited.

The claim, as amended, is stated at the sum of $1,250 and comprises cash and personal effects of deceased to an amount of $475 and compensation for the loss of claimant's son,—$775.

I am of opinion that claimant has made out a case of partial dependency upon her deceased son and is entitled to an award for his loss. The claim, as presented, is very modest, and I am disposed to allow it at the amount stated. As to the claim for personal effects, I feel that claimant is entitled to receive the award personally although technically it should properly be made payable to the estate of deceased.

On the whole, and having regard to the principles stated in Opinion No. 2, I would recommend payment to claimant of $1,250, with interest upon the sum of $475 from May 7, 1915, and upon the balance from January 10, 1920, at the rate of 5 per cent per annum until date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 26, 1931.

CASE 905—REV. A. E. BURGETT

This claim, as its docket number will indicate, came before the previous commissioner but could not be dealt with because claimant did not appear to substantiate the facts set out. He did appear before the present commission at its sittings in Edmonton, Alberta, and makes claim for the loss of a coat which he had purchased from Messrs. Meyer & Mortimer, merchant tailors of Conduit street, London, England. This garment was shipped by the makers to the claimant in Canada and was lost when the *Hesperian* was destroyed by enemy action on September 4, 1915. Claimant originally stated the claim at $22.90, but at the hearing requested permission to amend by placing the value at $100, which is estimated to be the replacement value.

While the evidence as to the shipment of the coat and its transportation aboard the *Hesperian* is vague, and the loss has not been very satisfactorily established, I am disposed to accept the claimant's statements, which were advanced in a very frank manner. The value claimed is not excessive and I would, accordingly, recommend payment to claimant of a sum of $100, with interest thereon, at the rate of 5 per cent per annum, from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 24, 1931.

CASE 973 WILLIAM E. RANSON

This claim, as its docket number will indicate, was submitted to the previous commissioner. Claimant received an award of $617.50 and interest covering loss of personal effects due to the sinking of the *Hesperian* on September 4, 1915, aboard which vessel he was a passenger with his son. Reference to the original file discloses that no claim was made for personal injuries.

On or about October 30, 1930, claimant filed with this Commission a supplementary claim in the sum of $550 on the ground that he had sustained injury as the result of exposure when the vessel went down, which incapacitates him from working. The claim is for loss of time and physician's accounts. He supports this claim with a medical certificate to the effect that he is suffering from asthma which is growing worse each year, causing a disability rated at 25 per cent. The only other medical evidence consists in a letter from the physician whose affidavit is filed. This does not add much to the previous evidence. It merely declares that claimant has been suffering from asthma "to my knowledge for the past two years." Claimant himself, when asked when he had first noticed this ailment, declares that it was eight or nine years after the sinking of the *Hesperian*.

In this state of the record, I do not consider that I am justified in drawing the inference that claimant's present condition results from exposure dating back fifteen years. It is entirely probable that claim would have been made for such incapacity at the earlier hearings had there been any ground therefor. I am, accordingly, bound to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 17, 1931.

CASE 983—MRS. MARY COWNLEY

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action.

The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports, and her loss has been the subject of numerous awards by previous commissioners.

The claimant is the widow of the late W. Cownley, a third class passenger aboard the vessel, and who lost his life when she went down. The presence of the deceased aboard is proven by letter from her owners certifying that he was a passenger and was not amongst the survivors. It appears also that the British Ministry of Labour made an *ex gratia* payment to claimant of $1,215.65 (£250) in 1918 for the loss of claimant's husband. Letter forwarding the amount, dated October 31, 1918, is filed of record.

At the outset, I was inclined to regard this payment by the British Government as a reparation award to claimant, but upon further consideration, I am of opinion that it was not such. At that time the war was still continuing and there could be no question of reparations. It was, therefore, merely an act of grace on the part of the British authorities and should not operate to bar claimant from now seeking reparation for the loss of her husband. The amount received must, however, be considered in any award now made.

This claim was not heard by the previous commissioner and was regarded as one dealt with by the British authorities. It is clear that claimant came to Canada with her husband long before the war. He was an iron moulder by trade and had been taken to England as a munition worker. While there, he fell ill and was being returned to Canada aboard the *Hesperian* when he lost his life. Claimant, who was wholly dependent upon her husband, is now sixty years of age and in very necessitous circumstances. After her husband's death she supported herself and brought up their one child by her own efforts. She is now employed by and resides with her brother-in-law, for whom she keeps house.

In these circumstances, applying the principles set out in Opinion No. 2, and having regard to the sum received by claimant from the British authorities, I am of opinion that she is entitled to a payment of $3,000, and I would, accordingly, recommend payment to her of this sum, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 3, 1931.

CASE 1211—HARRY W. ADAMS

This claim is supplementary to award made by Commissioner Pugsley allowing claimants a sum of $2,883.88 for loss of a shipment of fish aboard the ss. *Stephano*, destroyed by enemy action on October 8, 1916, with interest from January 10, 1920. In other awards made as a result of the loss of this vessel, interest was allowed from the date of the loss to date of payment.

For the reasons expressed in Opinion No. 4, I am of opinion that interest in cases of this kind should be allowed from the date of loss. This also was the view of Commissioner Friel in awards arising out of the loss of the same vessel (Cases 1277 and 1278). I consider the present claimant entitled to the

same treatment as other claimants for loss aboard the same vessel, and I would, accordingly, recommend a supplementary allowance of interest at the rate of 5 per cent per annum upon the amount of the award $2,883.88 from October 8, 1916, to January 9, 1920.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 21, 1930.

CASE 1227—THE BOECKH COMPANY LTD.

A claim was filed by this company in May, 1919, for a shipment of bristles which is said to have been seized by the enemy. The value of the merchandise was declared at 2,655.33 francs or $512.48.

A letter was received from the company dated October 25, 1930, stating that "as we have never been called upon to pay for the merchandise we are under the impression that the matter must have been otherwise disposed of. Under the circumstances, we feel that our claim should be cancelled."

This case is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1229—HAMBLY & WILSON

A claim was filed by this firm for merchandise lost in the destruction of three steamers sunk by enemy action. The value of the merchandise so lost was declared at $1,968.80

Upon being requested to appear at the Toronto sittings of the commission, the claimants wrote under date of October 24, 1930: "In reply to your letter of the 23rd instant, we beg to state that we have no claim for reparation, as this had already been settled by the insurance company."

This case is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1585—A. B. BARNES

A claim was filed by A. B. Barnes in January, 1919, but no declaration was completed. The claimant was notified to complete the necessary documents and, by letter dated October 28, 1930, he declared that his claim had been accepted and paid by the United States Government at Washington.

The claim is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1606—MRS. LOUISA ROGERS

This claim arises out of the destruction of the ss. *Lusitania* in circumstances which are well known.

James R. Rogers, a British subject, domiciled in Canada for several years before the war, was lost with the vessel. He had married the claimant herein at East London in South Africa on or about October 26, 1906. While no cer-

tificate of marriage has been produced, I am satisfied with the explanation of its absence and consider that claimant has established her marital status. One child was born issue of this marriage, a daughter named Thelma, who was about five years of age at the time of her father's death. The claimant was about forty years of age and the deceased about forty-two at the time of his death. He was the owner and publisher of the newspaper *Jack Canuck* published in Toronto, from which business he derived a net income of about $5,000 a year. He was a unique figure in Canadian journalism and had achieved considerable success with his publication. The record indicates that he was a man of good character and good habits, and was physically sound. His business was progressing favourably and the outlook for increasing his income therefrom was good. His income was largely devoted to the support and maintenance of himself, his wife and daughter. He maintained a comfortable home in Toronto and in his domestic relations is spoken of most highly. On his death, the claimant was thrown upon her own resources for support.

Deprived of the energetic and vigorous direction of the deceased, the publishing business which he had controlled and which claimant endeavoured to carry on, soon became non-productive, and she was left practically destitute with her minor child to bring up. The estate of deceased, of which claimant, as his widow, was named administratrix by the Ontario Courts, amounted in all to $5,500, $5,000 whereof was life insurance, which claimant received in her quality aforesaid.

Claimant is now resident in California where she went for reasons of health. She has been and still is employed as a housekeeper, and her daughter also works for her living.

Claimant asserts a claim as well for herself as for her daughter. She claims $50,000 for the loss of her husband, and $25,000 on behalf of her daughter. A further sum of $6,000 is claimed for loss of personal effects and cash in favour of the estate of the deceased.

It is clear that both claimants have sustained serious loss and damage through the death of the husband and father. Claimant was deprived of the support and maintenance which she had every right to expect, and the daughter was bereft of the counsel, advice and fatherly care which was her due. On this branch of the case, I consider that claimant and her daughter are entitled to substantial awards. Applying the principles set out in Opinion No. 2, I am of opinion that claimant should receive $15,000 and Thelma Rogers $20,000, and I would recommend payment to them of these sums. In the case of Thelma Rogers, the payment to be made to her legal guardian or other proper legal representative, both sums to bear interest at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

As to the claim for loss of personal effects, it is abundantly clear that from the record that the late James R. Rogers was accustomed to carry large sums of money on his person; that he was a very particular dresser and would have a complete and elaborate wardrobe with him. He had several pieces of good jewellry with him. The evidence as to the value of these personal effects and the cash he was carrying is not conclusive, and I am left to speculate as to the actual monetary loss. After full consideration, I conclude that a sum of $3,000 is a reasonable sum to allow under this head of claim and I would, accordingly, recommend payment to the estate of the late James R. Rogers of the sum of $3,000, with interest thereon, at the rate of 5 per cent per annum, from the date of loss, May 7, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 12, 1931.

CASE 1607 MRS. MARY BROOKE

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action off the coast of Ireland. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by the previous commissioners.

Claimant is the widow of the late James Boothby Brooke, who died at Ochre River, Man., on October 1, 1924. Claimant and her husband were British born. The latter came to Canada to reside in 1914 and claimant came out in 1915 aboard the *Missinabie*. Of a family of six, three had come out previous to 1915 and the remainder in 1915. The family home in England was broken up, some of the household effects disposed of and the remainder packed and shipped aboard the ss. *Hesperian*. The evidence clearly establishes the shipment of these goods and their insurance for a sum of £300.

Claimant's husband had been a decorative artist engaged in more or less technical work. He maintained a comfortable home in England and appears to have been successful in his calling. He had collected a quantity of antiques and paintings during his career, some of them being family heirlooms of great age. All these articles, or the more valuable of them, were shipped aboard the *Hesperian* and were lost when the vessel went down, as is amply shown by letters from Messrs. Dean & Dawson, Ltd., of Stockport, who shipped them.

A detailed list of these effects, antiques and paintings was prepared and filed by claimant with an indication of the estimated value thereof. In her original declaration the value is stated at the sum of $7,076 including freight charges. At the hearing, the claim was amended to comprise a valuation of $7,800. Apart from the testimony of the claimant and her two sons, proving the loss of the effects and their value, affidavits of three persons in England have been produced corroborating the ownership of the effects claimed for and indicating that they were of very considerable value.

At the hearing, Mr. W. Meanwell, an auctioneer and antique dealer, with high qualifications as a valuator of such articles, testified that he had carefully examined the list of articles said to have been lost, had questioned claimant in detail as to the description of the items in the statement and, from her replies and his knowledge of property of this nature, had been able to form a fairly accurate valuation thereof. He filed with his testimony a list giving valuations to a total sum of $7,800 which I have every reason to believe is as accurate as the circumstances will permit. Under cross-examination he was successful in furnishing adequate reasons for his valuations.

On the whole, therefore, I consider that claimant has made out a convincing claim for the loss of the effects at the value shown in the statement filed by Mr. Meanwell, subject, however, to a deduction of the amount of insurance recovered (£292). There is also filed of record an assignment in favour of claimant from all her children, of any right, title or interest in any award which may be made. In these circumstances, I would recommend payment to claimant of the sum of $6,379 ($7,800 less $1,421) with interest thereon, at the rate of 5 per cent per annum from the date of loss, September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 15, 1931.

CASE 1608--MRS. EDITH CROSSLEY

This claim arises out of the destruction of the ss. *California* on February 7, 1917, by enemy action.

The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and certificates from the Registrar General of Shipping, filed of record.

The claimant (then Mrs. J. W. Alderson) accompanied by her husband and infant child, were passengers aboard, proceeding to England on a six months' visit to their relatives. Claimant and her husband were British born but had resided in Vancouver for many years before the war. They were there married on September 19, 1910, and their child was there born on June 23, 1913, as appears from marriage and birth certificates filed of record. When the *California* went down claimant's husband and child were lost. This fact is proven by certificate of the Registrar General of Shipping above referred to. Claimant herself was saved after very distressing experiences in the ship's boat. She was later married to her present husband, Arthur B. Crossley, in England on January 29, 1918, and has been since resident in England. Her marriage certificate is filed.

Claimant did not appear before the Commission but submitted her claim, through counsel, upon documentary evidence. She claims the sum of £2,500, details of which sum she furnishes as follows: £500 loss of husband and child, £500 pain and suffering for self, £200 loss of baggage, £150 medical attendance on self, £900 additional help and £250 loss of cash (estimated).

The deceased, J. W. Alderson, had been employed by David Spencer Limited of Vancouver, B.C., as a foreman in their dry goods department. His average earnings over a period of five years had been about $1,000 per annum. The record is entirely silent as to any other income, or the manner in which claimant and her husband lived. The only medical evidence adduced consists of the affidavit of Dr. R. Wearing of Burnley, England, dated January 25, 1928, indicating that claimant suffers from severe pains in her head, which are aggravated at certain periods. That her condition results from her experiences he cannot, of course, say. He finally affirms that she was for about twelve months totally disabled and still suffers considerably, and estimates her disability in the general labour market at 100 per cent. There is also filed the solemn declaration of two witnesses who knew claimant at Vancouver before her experiences aboard the *California*. They declare that she then appeared to enjoy excellent health.

In this state of the record it is obviously difficult to arrive at the monetary loss sustained by claimant, and I am left to speculate as to what she should receive. Claimant remarried slightly less than a year after her first husband's death. Her claim for dependency is, therefore, limited to the intervening period. As to the loss of her personal effects there is no evidence whatever. Her claim for medical attention is not made out, nor has she shown in what way she was compelled to employ additional help. The evidence is entirely general as to all the items of claim, including the amount sought for pain and suffering. Apart from the declarations made in her sworn statement of claim, there is not even an affidavit from claimant in substantiation of her claim.

On the whole, therefore, and in the absence of further and better evidence, I am compelled to fix an arbitrary figure which I think is reasonable, to cover the loss sustained by claimant. I would, accordingly recommend payment to claimant of the sum of $1,500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4)

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1613—MRS. A. H. MILLER

The claimant is the widow of the late Howard Ballou Miller, a Canadian officer, killed overseas. His personal effects were sent home to claimant by the Military Estates Branch and were lost when the transport on which they were shipped was torpedoed and sunk on May 5, 1918. This fact is established by letter of the Assistant Director of Military Estates of May 30, 1918, filed of record.

Claim is made for the value of these effects, which is stated at the sum of $482. A list of the articles lost has been filed. This list was prepared by friends of claimant and was forwarded by the Military Estates Branch. The value of these effects given by the claimant appears to be reasonable, but I feel that I must deduct therefrom a sum of $45 which is the declared value of articles which appear to me to consist of military equipment and apparel.

I would, accordingly, recommend payment to claimant of the sum of $437, with interest thereon, at the rate of 5 per cent per annum, from the date of loss, May 5, 1918, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 14, 1931.

CASE 1615—MRS. FRANCES WILDE

The claimant is the mother of the late Lytton Wilde, a Canadian soldier, killed overseas. His personal effects were sent home by claimant by the Military Estates Branch, and were lost when the transport on which they were shipped was destroyed by enemy action. This fact is established by letter from the Director of Military Estates dated June 1, 1918, filed of record.

Claim is made for the value of these effects, which is stated at the sum of $250. An inventory of the articles was furnished by the Military authorities and the value placed thereupon by claimant appears to be reasonable. None of the articles would appear to be military equipment.

I would, accordingly, recommend payment to claimant of the sum of $250, with interest thereon at the rate of 5 per cent per annum, from June 1, 1918, approximate date of loss, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 4, 1931.

CASE 1625—REV'D. JOHN A. BEATTIE

This claim arises out of the destruction of the ss. *Lusitania* by enemy action, on May 7, 1915, under circumstances which are well known.

Claimant's wife and son were passengers aboard the vessel. The former lost her life, the latter being saved. Claimant asserted a claim before the previous Commissioners for his wife's death and loss of personal effects. Award was made (Case 855) granting $810.67 for loss of personal effects and disallowing the death claim as no evidence of dependency had been made. It may be well also to point out that claimant's son, Allan M. Beattie, received an award of $15,000 for personal injuries sustained when the vessel was lost (Case 770).

At the present hearing, application was made to reopen Case 855 for the purpose of showing that an improper conclusion had been reached in disallowing the claim for the loss of Mrs. Beattie's life. I pointed out to counsel, at

the time, that I was not authorized to reopen cases dealt with by the previous commissioners. It was urged that claimant had not been heard by the previous commissioners and the suggestion was made that had he had an opportunity to present his case, the result would have been otherwise. However this may be, I am still convinced that I am without jurisdiction to deal with this aspect of the claim. May I say, in passing, as more clearly set out in Opinion No. 2, that it is not the value of the life lost which forms the basis of an award. It is the loss sustained by the survivor as a result of the death which is alone the subject of assessment. In the present case it is unmistakably established that the late Mrs. Beattie was a remarkably able woman, possessed of qualities of the highest order. But that her husband was dependent upon her in the legal conception of dependency was not, nor could it very well, be proven. To repeat, however, I now deal with this aspect of the claim on the question of jurisdiction only.

The present claim, as submitted and presented, is supplementary to the decision referred to and is confined to expense to and loss incurred by claimant by reason of his wife's death. It is asserted in the sum of $1,597.59 (as amended at the hearing), and is made up of items for travelling expenses, board, clothing for his son and son's board, during the time claimant sought to find his wife's body and later caring for his son in England and bringing him home to Canada, due to his illness consequent upon shock, etc. Claimant was undoubtedly put to great expense and I consider that he has made out a claim for this loss which is a direct consequence of the death of his wife. I would allow the claim at the sum stated.

At the hearing, counsel on behalf of claimant further requested permission to put forward an additional supplementary claim for loss and damage to claimant's health resulting from mental shock and anguish at his wife's death. Claimant was serving in England in the Canadian overseas service, being attached to the chaplain services and was in Liverpool, on leave, to meet his wife and son, when he received the news of the loss of the vessel. His son arrived in Liverpool two days later in a very seriously shocked condition. He required the care of his father, who, after he had endeavoured to locate his wife's body, suffered a mental collapse and was extremely ill for some months. He was sent to Scotland to recuperate and finally rejoined his unit in September, 1915. He then proceeded to France where he served with distinction during the period of the war, except for a few months in 1916 when he brought his son home, owing to the latter's poor health.

There is no medical evidence in the record, but I think it can be said that claimant suffered and continued to suffer mental anguish in an acute form and that this has left its impress on his mind and nervous system. His period of convalescence from the collapse he suffered was from May to September, 1915. While he received his military pay during this time, he did I consider, suffer some permanent impairment to his health. Though it may be difficult to assess the amount which should be allowed, I am disposed to recommend a payment to claimant, on this head of damage of $1,000.

To summarize: I recommend payment to claimant of the sum of $2,597.59 with interest upon $1,597.59, at the rate of 5 per cent per annum, from September 10, 1916, (date such expense was definitely ascertained), and upon the balance from January 10, 1920, to date of payment. (Opinion No. 4.)

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 15, 1931.

CASE 1626—MRS. ALICE GRIFFITHS

This claim arises out of the destruction of the ss. *Hesperian* by enemy action on September 4, 1915.

The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards made by the previous commissioners.

The claimant, then Miss Alice Boardman, born in England, was coming out to Canada to reside. Her name appears as a passenger aboard the vessel. She makes claim for the loss of her personal effects, and a sum in cash of £475 which she was carrying in her handbag. The total amount of the claim is £687.8.6, the balance being made up of personal belongings, an oil painting, jewellery, china and cutlery. Asked to explain why she was carrying such a large sum of money, claimant declared that it was made up of a legacy of £291 and the balance her savings. She declares that her sister (since deceased) who was travelling with her, did not know she had this money with her.

Claimant was twenty-two years of age and had been employed since she was thirteen years of age. At the time she left England she was a warper earning about twenty-six shillings a week.

In the absence of some corroborative evidence to support claimant's statement that she had this large sum of money with her, I regret that I am unable to accept it in full. As to the value of the effects lost, it is difficult also to base an award solely upon claimant's valuation. It should have been possible to furnish the evidence of an expert who could fix a valuation upon claimant's description of the paintings and other valuables lost. In these circumstances, I am left to speculate as to the loss sustained by claimant.

I am disposed to recommend payment to claimant of the sum of $1,500 to cover her entire loss, with interest thereon at the rate of 5 per cent per annum, from the date of loss, September 4, 1915, to date of payment. (Opinion No. 4.)

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1628—ROBERT MAHARRY

This is a claim by Sergeant Robert Maharry, for many years a member of the Ottawa police force, in connection with injury sustained by his late wife, and expenses incurred in consequence of her death which occurred on June 4, 1928. Mrs. Maharry was a passenger aboard the ss. *Hesperian*, sunk by enemy action on September 4, 1915. She made claim before the previous Commission and received an award of $3,000 for personal injuries and $700 for loss of personal effects. Before payment of the award Mrs. Maharry died, and the Administrator of her estate, the present claimant, received the award, one-third whereof personally as heir of his wife and the balance for investment on behalf of his children.

Mrs. Maharry died from cancer of the breast and the evidence does not justify the conclusion that the inception of this malignant disease had its origin in the experiences she went through when the vessel was torpedoed. There is, however, a finding of fact that Mrs. Maharry's health was "considerably impaired" from this cause, which is emphasized by the testimony of Dr. Booth, who had attended Mrs. Maharry for many years, that her death was hastened by her painful experiences.

The claim, as now presented, amounts to $2,600, made up of $1,000 for medical expenses since January 1, 1922, to date of death, $200 hospital expenses, $400 funeral expenses, and $1,000 for the loss of his wife. The claimant did

in fact incur very heavy expense during his wife's illness for medical expenses and Dr. Booth is of opinion that the sum of $1,000 claimed therefor is quite reasonable. I have no doubt, quite independently of the cause of death, that these expenses, in part if not wholly, resulted directly from the injury sustained by Mrs. Maharry. I would, therefore, allow this item of the claim, as also the hospital expenses of $200. The funeral expenses do not, I consider, constitute a valid claim and I am not prepared to allow this amount.

As to the claim for the loss of his wife's life, while her death has not been clearly shown to have resulted from the torpedoing of the *Hesperian*, there is a reasonable inference that her experiences did contribute to her death. I think I am dealing fairly with the claimant in allowing him half of the amount claimed under this head of damage. The basis of this award rests upon the deprivation of the wife's assistance in bringing up the children, which cast an extra burden of expense upon claimant.

I would, accordingly, recommend payment to claimant of the sum of $1,700, with interest upon the sum of $1,200 from date of death, June 4, 1928, and upon the sum of $500 from January 10, 1920, at the rate of 5 per cent per annum to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 14, 1931.

CASE 1638—CHARLES KENNAUGH

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

The claimant, a British subject, resident in Canada, had returned to England to bring his wife home. She had gone to England due to illness. Claimant was a second cabin passenger aboard the *Hesperian*, which fact is established by the passenger list and his own statement.

Claim is now made for loss of personal effects, including also some household effects and the personal belongings of claimant's wife which he was bringing home with him. His wife had died in England. A list of these effects to a total value of $2,002.10 has been filed and is certified by claimant as being correct. He is a carpenter by trade, had lived for some time in South Africa where he would appear to have accumulated considerable personal property. I am not entirely satisfied with the proof made as to the value of the effects lost which I regard as somewhat high. I consider, however, that claimant should receive a substantial award, and I would, accordingly, recommend payment to him of the sum of $1,500 with interest thereon, at the rate of 5 per cent per annum, from the date of loss, September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 3, 1931.

CASE 1644—EDWARD HUGHES

This claim arises out of the destruction of the British steamer *Carpathia* by enemy action on July 17, 1918. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports.

The claimant, who had resided in Canada for many years had returned to England with his wife in 1915, and in 1918 was again coming out to Canada to his daughter, Mrs. E. Dalmer, of Niagara Falls, Ontario. Claimant's wife was to follow later. While in England, claimant had owned and operated a

small cab business in Liverpool, and had sold it out in anticipation of his departure for Canada. He lost all his personal effects when the *Carpathia* went down and now claims the value thereof, which he places at $1,500. There was also some question of the loss of a portion of his wife's personal effects, which were apparently lost in transhipment to Canada, at the time claimant and his wife came out together aboard the *Olympic*. This claim was not, however, pressed.

I find the evidence incomplete as to the value of these personal effects, and I am inclined to agree with the claimant's daughter that the value would not exceed $1,000. I would, accordingly, recommend payment to claimant of the sum of $1,000 with interest thereon, at the rate of 5 per cent per annum, from the date of loss, viz., July 17, 1918, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 19, 1931.

CASE 1650—LT. COL. WILLIAM HOWARD BELSON

This claim arises out of the destruction of the R.M.S. *Arabia* on November 6, 1916, by enemy action in the Mediterranean. The loss of the vessel, in the manner indicated, is established by Admiralty reports.

The claimant, a British subject, born in South Africa but resident in Canada since 1883, had been attached to the staff of Lieut. General Sir Percy H. L. Lake in Mesopotamia and was returning to England, with him as a passenger aboard the *Arabia*, as is evidenced by certificate of General Lake filed of record.

Claim is made for the loss of personal effects of a non-military character. In the original statement the value of the property lost was stated at $750, but the claim was subsequently amended to comprise only civilian effects, and is now advanced in the sum of $600. I have no reason to doubt the correctness of the articles declared to have been lost by claimant, nor the value placed thereupon by him. I would, accordingly, recommend payment to claimant of the sum of $600, with interest thereon, at the rate of 5 per cent per annum, from November 6, 1916, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 24, 1931.

CASE 1660—MRS. BESSIE LAFLEUR

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous Commissioners.

The claimant, then Miss Bessie Williamson, was a passenger aboard, as evidenced by the passenger lists, and lost her personal effects when the vessel went down. She was coming to Canada to reside permanently and had purchased a complete outfit. She was also carrying cash, her savings, amounting to $245.00. Later she arrived in October, 1915, aboard the ss. *Scandinavian*, married a Canadian in December of the same year and has resided in Canada ever since.

The detailed list of effects filed of record, upon which a value of $641.50 has been placed, does not appear to be excessive. Claimant testifies that she had these effects with her, and I consider she is entitled to an award in the

amount stated. I would, accordingly, recommend payment to claimant of the sum of $885.10, with interest thereon, at the rate of 5 per cent per annum from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1664—SARAH H. TURNER

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and has been the subject of numerous awards by previous commissioners.

The claimant, accompanied by her three minor children, was coming to Canada to join her husband in Brantford, Ont. Turner had come out to Canada in 1912 and his family was coming out to make their permanent home here with him.

The presence of the claimant aboard, with her three children, is proven by the passenger list and corroborated by newspaper accounts appearing in the press at the time.

Claim is now made for loss of personal effects to a value of $2,500. Mrs. Turner was bringing with her practically everything she owned in view of her intention to make Canada her home. Originally claim was also made for personal injuries to the children, sustained when the vessel went down, but this claim was abandoned at the hearing. The evidence in support of a valuation of $2,500 for the personal effects is very indefinite and I am inclined to believe that these effects did not, in fact, exceed $1,250 in value. Claimant admitted this to be the case in her testimony. In the absence of more specific evidence, therefore, I cannot allow any greater sum. I would, accordingly, recommend payment to claimant of the sum of $1,250, with interest thereon, at the rate of 5 per cent per annum, from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 26, 1931.

CASE 1665—MRS. WM. WRATHALL

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by the previous commissioners.

The claimant, a British subject, with her daughter aged nine years, was a passenger aboard the *Hesperian* returning to her home in St. Catharines, Ont., where she had been resident since 1913. That claimant was aboard is proven by the passenger lists. She lost her personal effects for which she claims, and also makes claim for injury to her daughter's health. In the original statement as filed the amount claimed was $1,000 covering all items. At the hearing, however, application was made to amend to increase the value of the effects lost, and to add also a claim for injury to claimant's health. The claim for personal effects was then raised from the very modest sum of $200 (including cash) to $857.92. The amendment does not in every respect conform to claimant's testimony as to the value of the effects lost, and I am inclined to regard the latter figure as somewhat excessive. I would allow it at the sum of $500. The medical

evidence as to personal injury to claimant herself is quite inadequate to permit of an award. I consider that it has been established that claimant was put to expense in caring for her daughter, who did sustain some personal injury resulting in incapacity, and I would allow the amount shown by Dr. Coutts as having been paid to him by claimant, viz., $150.

As to the claim for injury to her daughter's health, the evidence is not satisfactory. I should imagine it would be very difficult to prove that a child of nine years of age had sustained permanent damage as the result of being carried aboard a life boat by her mother and attended by her throughout. It would require much more convincing testimony than that adduced for me to attribute the daughter's present or recent condition to the cause ascribed. She is now married and is in comparatively good health. I consider the allowance to claimant to cover medical expenses incurred for the benefit of her daughter is the extent to which I can go on this item of claim.

I would, accordingly, recommend payment to claimant of the sum of $650, with interest at the rate of 5 per cent per annum upon the sum of $500 from September 4, 1915, and upon the balance from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,

OTTAWA, February 18, 1931. *Commissioner.*

CASE 1669—GEORGE McNAB

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

The claimant, a British subject, was a passenger aboard, returning to Canada where he had resided previous to enlisting for overseas service. He had been discharged from the army as medically unfit and was returning to his home in Windsor, Ont. No corroboration of his presence aboard the vessel has been furnished but I am satisfied with his own testimony on this point.

He claims for the loss of his personal effects and cash, a sum of $445, and $250 for loss of time occasioned by injuries received when the vessel went down. At the hearing he restricted his claim to the loss of personal effects and cash. In fact, the medical evidence is inadequate to base an award for personal injuries. The amount claimed for loss of personal effects and cash is not unreasonable.

I would, accordingly, recommend payment to claimant of the sum of $445, with interest thereon at the rate of 5 per cent per annum from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,

OTTAWA, February 5, 1931. *Commissioner.*

CASE 1678—MRS. MARY A. MATTHEWS

This claim arises out of the destruction of the ss. *Lusitania* in circumstances which are well known.

The claimant is the mother of the late Robert Matthews who was a passenger aboard the *Lusitania* and lost his life when she went down. Claimant,, with her deceased son and her other children, had come to Canada many years before the war, and she is still resident here.

The fact of the death of the late Robert Matthews, in the manner indicated, is established by the record and award made in favour of his widow by the previous commissioner, to the widow $8,000, and to each of the minor daughters $4,000 (Case 819).

The deceased was engaged in farming and real estate, and was carrying on a lucrative business, his net income amounting to from $1,800 to $2,500 per annum. He was on a business trip to England, and then intended to enlist in the British forces. The evidence clearly establishes that claimant was partially dependent upon her deceased son for support. An undertaking by him to contribute $25 a month to his mother has been filed of record, and it is also in evidence that he had assumed the shares which his brothers had undertaken to pay to her, but which they were unable to meet. There can be no doubt that had he lived, deceased would have continued to contribute to his mother's maintenance, and it is a fair assumption that the amount of his contributions would have been increased. Claimant is now seventy years of age and is wholly dependent upon her children for support. Prior to the death of her son Robert she had made her home with him. She advances a very modest claim in the sum of $1,000.

For the reasons expressed in Opinion No. 2, I am clearly of opinion that claimant is entitled to an award, and I would not limit her to the amount stated in her claim. I would, accordingly, recommend payment to claimant of the sum of $2,500, with interest thereon at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 17, 1931.

CASE 1681—MRS. MARGARET BLYTH

This claim arises out of the destruction of the ss. *Hesperian* by enemy action on September 4, 1915. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

Claimant, then Miss Margaret Keene, was a third class passenger and was coming out to Canada to her brother, who resides in Quebec, and who had advanced her passage money. She was coming out to reside permanently and was bringing with her all her personal effects, which had been collected in anticipation of making Canada her home. She had been cook in a cafe in England, and when she eventually reached Canada became a domestic servant until her marriage in 1923 to a Canadian, George S. Blyth, of Windsor, Ont. Her presence aboard is proven by letter from the owners of the vessel.

At the time the vessel went down, claimant was slightly injured in getting into the boats and later sat in water in the boat for several hours, being completely drenched. They were finally landed at Queenstown, transported to Liverpool, and eventually claimant arrived in Quebec on September 20, 1915. At that time she was practically destitute and was wearing what clothing had been given her. She was met by her brother who hardly knew her. As a result of her experiences, it is said her menstrual periods were brought on, due to the shock and exposure and that she has constantly suffered from that cause ever since. She complains of constant headaches and pains, for which she takes medicines. The medical evidence corroborates claimant's statements. It is stated that her present rundown and nervous condition, particularly her irregular and painful menstruation, probably resulted from the exposure and that this condition is apt to be permanent. Other witnesses have also testified to her sufferings and I have no hesitation in concluding that claimant's health has been injuriously affected by her experiences when and after the vessel went down.

In addition to a claim for personal effects and cash which claimant values at $699, she has also filed a supplementary claim for personal injuries amount-

ing to $4,500 made up of cost of medicines and tonics over a period from September 21, 1915, to date, and $4,000 general impairment in her health. Of the claim for personal effects and cash, I consider claimant has established her case, with the exception of an item for the loss of an express order for £15 ($75) which had been sent her by her brother and which she had with her uncashed. This money has not been lost and may be recovered in the usual manner. I would, accordingly, allow claimant in respect of her personal effects a sum of $624.

Applying the principles stated in Opinion No. 2, I consider claimant entitled to an award of $3,000 for impairment to her health, including cost of medicines. I would, therefore, recommend payment to claimant of a sum of $3,624, with interest thereon, at the rate of 5 per cent per annum, on $624 from September 4, 1915, and upon the balance from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 5, 1931.

CASE 1692—MRS. ANNIE A. PALMER

This claim arises out of the destruction of the French trans-channel steamer *Sussex* by enemy action on March 24, 1916, in the English channel. The loss of the vessel, in the manner indicated, is established by French official reports and newspaper clippings relating the occurrence.

Claimant, as the widow of the late John Henry Palmer, claims for the loss of her husband's life at the time the vessel was torpedoed. It is in evidence that he was instantly killed by the explosion. The ship was beached and the body recovered. Burial certificates have been produced. Both the claimant and her husband were Canadian born. Deceased was forty-one years of age at the time of his death and was a director in the well-known firm of Debenhams (Canada) Limited, a Canadian corporation carrying on business in Montreal and elsewhere throughout Canada. Contract of employment with this corporation is produced, dated December 3, 1914, under the terms whereof deceased was to act as director of the company for a period of five years from January 1, 1915, at an annual remuneration of $3,600 and travelling expenses. At the time he met his death deceased was engaged in the affairs of the company. A cable from Messrs. Debenhams Limited has been produced indicating that the agreement referred to would have been continued from time to time on similar terms had deceased survived. It is also in evidence that deceased received an annual bonus for his services in addition to the remuneration above stated. The evidence as to this feature is not very satisfactory, but I think it may be said that Palmer was in the enjoyment of an income of about $5,000 per annum with excellent chances of advancement and resultant increase in his earnings. There was one child issue of claimant's marriage with deceased, a daughter aged sixteen years at the time of her father's tragic death. Mrs. Palmer was in ill-health when the news of her husband's death reached her and as a result of the shock and grief her condition was considerably aggravated and it was two years or more before she regained fair health. The medical evidence establishes this point but does not make clear the nature of claimant's illness or whether there was any permanent impairment to her health. The employers of the deceased, Messrs. Debenhams Limited, appear to have acted very generously with the widow in the sad circumstances of the loss of her husband. It is in evidence that she received something like £2,000 from the firm, and I understand this to have been in the nature of a compassionate allowance. Apart from this payment claimant recovered $3,000 insurance on her husband's life. She was fortunate in being able to look to her father and family in her trouble and she did receive assistance as well for herself as for her minor daughter.

Claimant puts forward a claim for $50,500 made up of transportation and burial expenses $500, and loss of support of her husband $50,000. Claimant was wholly dependent upon her husband for support and the fortunate circumstance of her family being in a position to alleviate her distress and offer her succor, does nothing to reduce the liability for the loss of her husband's life. No claim has been made by, or on behalf, of the daughter who clearly was also dependent upon her father not only for support but also for guidance and counsel in reaching maturer years. I cannot, therefore, deal with the daughter's case, but possibly it is included in the amount claimed by the mother. The claim for loss of personal effects spoken to at the hearing was not pressed.

Applying the principles stated in Opinion No. 2 and having regard to the station in life of the parties, the earnings of deceased, his probable increased earning power I consider that claimant is entitled to a substantial award. I would, accordingly, recommend payment to claimant of a sum of $20,000, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 10, 1931.

CASE 1698—MRS. HELEN C. GRACEY

This claim arises out of an incident which occurred aboard the ss. *Olympic* on March 13, 1918.

Claimant, the wife of a Canadian soldier, was on her way to Canada, a passenger aboard the vessel named. Enemy submarines were operating in the vicinity and the *Olympic* was attacked by one of them. She managed to elude the submarine and, apparently, due to good seamanship and alert manoeuvres, destroyed the submarine with a depth bomb. The concussion of the explosion of the depth bomb aboard the *Olympic* is said to have been very severe, many of the passengers being thrown to the ground. At the time of this occurrence, claimant was 3½ months pregnant, and she alleges that the concussion brought on a miscarriage, from the effects whereof she has never recovered. She was then about forty years of age and had had two children of a previous marriage. There is a suggestion that her condition during pregnancy was none too good since she had been advised by her physician in England that she must be very careful. From the record, it would appear that the actual miscarriage occurred after her arrival in Ottawa. At her age, I may assume that the consequences of this experience would be quite serious. The only medical evidence brought forward by claimant is a certificate by Dr. G. S. MacCarthy of Ottawa, certifying to a successful operation for abdominal hernia and indicating that claimant states she had had a previous operation for salpingitis.

Claimant asserts a claim for $2,500 on the ground that the loss of her child and her present condition is ascribable to the occurence related. Quite apart from insufficient medical testimony to support her claim, I consider that claimant has failed to establish a case of *direct* enemy action. The dropping of a depth bomb by those aboard the *Olympic* was an act done in the protection of the vessel and her passengers. While related to the enemy, I do not think that such action can be regarded as falling within the relevant sections of the Treaty of Versailles. With the greatest sympathy for claimant, I am none the less compelled to disallow her claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

CASE 1702—NEIL J. McALLISTER

This claim arises out of the destruction of the ss *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by the previous Commissioners.

Claimant is a British subject who was resident in Canada before the war. He enlisted in the 7th Battalion, but was discharged as medically unfit in England, and was returning to Canada as a passenger aboard the ss. *Hesperian*. His presence aboard is established by the evidence of a fellow passenger, Harold M. Shaw, who was his cabin mate and is able to testify to the loss of claimant's personal effects, and to the fact that claimant was in the water for some considerable time before they were picked up by H.M.S. *Empress*.

In addition to asserting a claim for the loss of his personal effects to an amount of £44.9.0, claimant alleges that he sustained personal injuries, resulting in permanent disability, as the result of his exposure in the water for several hours, and at the hearing requested to amend his claim to include compensation therefor.

The medical certificate attached to his claim indicates that he is suffering from prostatitis and nephritis, and is incapacitated to the extent of 100 per cent in the general labour market. He is also almost totally deaf, and is in receipt of a pension for that disability. Claimant is now seventy years of age, and from further medical certificate, filed at the hearing, would appear to have undergone several operations in connection with his prostate. This certificate concludes with the statement "that the conditions of war service, especially the exposure to prolonged cold and wet detailed above, are the chief cause (sic) of this man's disability.....".

In these circumstances, I do not consider that it has been proven that the disability now complained of results inevitably from exposure at the time of the sinking of the *Hesperian*. It might equally be ascribed to his period of war service. I cannot, therefore, allow a recovery on the head of personal injuries sustained. I consider that he has made out a case for the loss of his personal effects, and I would recommend payment to him of the amount claimed, viz. £44.9.0, equivalent to $216.32, with interest thereon, at the rate of 5 per cent per annum, from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1706—G. S. ABBOTT

This claim arises out of the destruction of the ss. *Andania* by enemy action on January 27, 1918. The fact of the loss of the vessel, in the manner indicated, is established by letter from owners and by the evidence of D. D. Findlay, who shared the same cabin with claimant.

Claimant was an ex-officer in the Canadian Air Force and was returning to Canada, on leave, as a passenger aboard the *Andania*. He lost his personal effects when he was compelled to abandon the ship. The witness referred to corroborates claimant's statement that he had his personal baggage with him. He also was an officer of the Air Force, returning on leave, and received an award from the previous commissioner in the sum of $125 (Case 1118).

In the present case, claimant has endeavoured to reconstruct a list of the articles lost and places a value of $236.50 thereon. He admits that some of the effects lost consisted of military equipment and apparel, but has restricted

his claim to the value of purely civilian effects. The valuation of $236.50 placed upon the list filed by claimant does not appear to be excessive and I would, accordingly, recommend payment to him of the sum of $236.50, with interest thereon, at the rate of 5 per cent per annum, from the date of loss, January 27, 1918, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 14, 1931.

CASE 1712—MISS MABEL CAMPBELL (MRS. M. DICKIE)

The claimant requested the necessary forms to complete a claim in connection with the destruction of the ss. *Lusitania* by enemy action on May 7, 1915.

The claim is said to be based upon the death of claimant's sister, Miss Christine Fraser Campbell.

It has now been definitely ascertained that this claim was disposed of by the previous commissioner under Case 833, when an award of $1,000 was made to the surviving sisters of the deceased, Mrs. Hannah Urquhart, Mrs. Francis Sutherland and Mrs. Mabel Dickie (the present claimant).

The claim is, therefore, disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1716—ANDREW SEMPLE

This claim arises out of the destruction of the ss. *Lusitania* by enemy action on May 7, 1915, in circumstances which are well known.

Claimant filed a claim for the loss of his wife and infant son who were drowned when the vessel went down.

No amount was stated for the loss of life but claim was asserted for the loss of personal effects to an amount of $400.

Subsequently, on November 20, 1930, the claimant's attorney advised that his client did not wish to proceed further with the matter for sentimental reasons, and asked that the claim be withdrawn.

This claim is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1725—ALPHONSE RACINE LIMITED

This claim arises out of the destruction of two vessels, the *Lake Michigan* on April 16, 1918, and the *Medora* on May 2, 1918, by enemy action. The loss of both vessels, in the manner indicated, is established by Admiralty reports.

The claimant, Alphonse Racine Ltd., is a Canadian corporation, incorporated by Letters Patent under the laws of the Dominion of Canada on January 3, 1913, with its head office at Montreal.

In April and May, 1918, claimant purchased certain dry goods and similar merchandise in England and through its agents, Messrs. Thomas Meadows & Co. Ltd. of Liverpool, shipped these goods upon the two vessels named, the first lot aboard the ss. *Lake Michigan* on or about April 13, 1918, and the second lot

aboard the ss. *Medora* on or about May 1, 1918. The goods in question were completely lost when the vessels were torpedoed and sunk. Claimants carried no insurance upon the goods, alleging that they found the rates too high. In their experience these were the only two shipments lost by them.

They now make claim for the value of the goods to a total amount, according to submission of counsel, of £3,880·0·9 (equivalent (at rate of exchange furnished by the Royal Bank) to $18,840.01). This figure is arrived at from summary statements furnished by Messrs. Thomas Meadows & Co. Ltd. indicating the goods and the values thereof shipped for account claimants aboard the two vessels. These summary statements—one is furnished in respect of each vessel—were delivered in the ordinary course of dealing between claimant and its agents. Clearly, after the lapse of twelve years, it is difficult for claimant to produce invoices and receipted vouchers covering every item of the account. Possibly had the claims been presented at an earlier date, the difficulty of proof might not have been so great. Claimants were apparently unaware that they could put forward a claim until comparatively recently.

In submitting the case, counsel representing claimants has gone to great trouble in endeavouring to establish the shipment, value and loss of the items comprised in the claim and has, I consider, succeeded. From the summaries furnished by Messrs. Thomas Meadows & Co. Ltd. indicating the shippers, claimant was enabled to write for particulars of the claims and has, as to most of the items, established by invoices and receipts the shipment, loss of the goods and payment by claimant. In some instances where proof of this nature was not available evidence has been made by the secretary-treasurer of the company from the company's books indicating orders placed and payments made. It would not, I think, be profitable to enter upon a detailed analysis of each item and I would propose merely to indicate certain of them as showing the basis of the claim and adjustments which have become necessary. Throughout the evidence certain adjustments were made to provide for discounts not shown in the summaries referred to. In general, the statements of Messrs. Thomas Meadows & Co. Ltd. are net amounts. In the *Lake Michigan* account, item No. 3, A. Reid & Co. Ltd. £233·0·0 is increased by £2·12·8; item No. 4, A. Walker & Co. is reduced by 3/11; item No. 5, Goodar Ltd. £76·0·0 is reduced by £1·1·5; item No. 7, J. Honeyman & Co. £103·11·0 is increased by 10d.; item No. 14, Brown Jackson & Co. £127·0·0 is increased by 13/5; item No. 15, J. T. Lewis & Sons Ltd. is reduced by £4·17·5. The net result of these increases and reductions in the various items is that the claim as originally presented is reduced by £3·15·10, leaving a net amount of £2,177·1·7. In respect of one item, No. 8, Pawsons & Leafs Ltd. £133·18·3 there is no documentary evidence to support the claim. Claimants cannot find in their records any substantiation of this sum. The shippers books have been destroyed, nor can claimants furnish a record of payment. Their own books are also missing. In these circumstances can I say that the Meadows statements should be sufficient to establish the amount, because it was sent in the ordinary course and correctly recites other items and must accordingly be correct as to this particular item. I think the inference is permissible and I would allow the item.

In the *Medora* account, item No. 3, Palstone Cooke & Co. Ltd. £424·13·4 is reduced by £10·8·1; item No. 10, Edelstein & Son Ltd. £102·0·0 is reduced by £2·4·9; and item No. 12, Browne, Jackson & Co. is increased by £1·2·0; item No. 14, W. & H. Howe is reduced by £1·12·0. The net result of these adjustments is that the claim in respect of the *Medora* as originally submitted is reduced by £14·12·8 leaving a net amount of £1701·7·2. In this case also I am disposed to accept the figures of Messrs. Thomas Meadows & Co. Ltd. in regard to several of the items as to which satisfactory evidence has not been adduced. This statement was, as indicated, prepared in the ordinary course of business at

the time of shipment when there could be no interest in presenting misleading figures. It bears all the earmarks of genuineness, and having been proved to be exact as to most of the items, can, I think, be accepted in its entirety.

On the whole, therefore, I am of opinion that claimants have been made out a good case for loss and damage to property belonging to them aboard these two vessels to the extent of £3878·8·9 equivalent (at rate of exchange furnished by the Royal Bank of Canada as of July 15, 1918) to $18,832.24. I, accordingly, recommend payment to claimant of the sum of $18,832.24, with interest thereon, at the rate of 5 per cent per annum, upon the sum of $10,571.08 from April 16, 1918, and upon the sum of $8,261.16 from May 2, 1918, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CASE 1726—W. J. HUNTER

This claim arises out of the destruction of the ss. *Lusitania* by enemy action on May 7, 1915, in circumstances which are well known. George Hardie Hunter and his wife were passengers and both lost their lives when the vessel went down. This fact is established by letter from Cunard Steamship Company Limited, dated December 1, 1930, which is filed of record.

Claim is now made by a brother of the deceased for $6,575 made up of $900 which claimant alleges he had given to his brother to take to their father in Scotland as a contribution to establish him in business, $675 interest on this sum for fifteen years at 5 per cent, and $5,000 for the loss of his brother, upon whom he alleges he was dependent. Claim is also asserted for the value of the personal effects, cash and carpentry tools which deceased is said to have had with him. A substantial value is placed upon these effects, including the property belonging to the deceased's wife, in fact, the total comes to $5,255.

Dealing first with the claim for dependency. There is nothing in the record to justify a finding that claimant was in any way dependant upon the deceased. He does say that his brother was accustomed to make payments to him, which from 1910 to the date of death aggregated $700. The brothers were associated in business as contractors, the deceased being a carpenter and claimant a machinist. From the deposition, it would appear that deceased earned about $3,000 per annum. I cannot allow the claim for dependency.

Claimant alleges and declares that his brother had $900 of his (claimant's) money with him to deliver to his father. There is absolutely no evidence to support this statement and I find it curious that claimant, being dependent upon the deceased, as he declares, should have a sum of $900 which he was donating to his father. This item of the claim cannot be allowed.

As to the personal effects, cash and effects of Mrs. George Harvie, I am of opinion that the amount stated, having regard to the station in life of the parties, is exaggerated and misleading. In the absence of more conclusive proof as to these effects, I can only award what I think is reasonable and fair. The wife's effects would, I assume, pass to her husband upon their simultaneous death and, as there were no children, would devolve to deceased's estate. I do not consider that the value of the effects lost, including cash, exceeded the sum of $2,500 and I would, accordingly, recommend payment to the estate of the late George H. Hunter of the sum of $2,500, with interest thereon, at the rate of 5 per cent per annum from the date of loss, viz. May 7, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 4, 1931.

CASE 1728—MISS L. M. GODDARD

A claim was filed by Miss L. M. Goddard on behalf of the infant children of John A. Goddard who is alleged to have lost his life in the sinking of the ss. *Empress of Ireland* on the St. Lawrence river on May 29, 1914.

The amount of the claim was unstated.

The sinking of this steamer took place prior to the outbreak of war and her loss does not, therefore, come within the jurisdiction of this commission. The claim must be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1737—HENRY RICHEY, DANVILLE MANUFACTURING COMPANY LTD.

This claim arises out of the destruction of the ss. *Cymric* on May 8, 1916, by enemy action. The loss of the vessel, in the manner indicated, is established by Admiralty reports.

The company claimant was organized under The Companies Act of the Province of Quebec and carried on business as a manufacturer of woodenware and lumber. The company was placed in voluntary liquidation in 1920 and its affairs are now being wound up by its former president and controlling shareholder, Matthew H. Richey of Montreal.

Under bill of lading, dated April 29, 1916, claimant shipped to the Leicester Counter Company, Leicester, England, 140 bags of shoe shanks aboard the *Cymric*. The bill of lading is filed of record. These goods were lost when the vessel went down. Claimant recovered no insurance and has been unable to effect recovery from the consignees. The value of the goods is shown at $506.52 and represents the damage sustained by claimant. I am of opinion that claimant has made out a clear case and I would, accordingly, recommend payment to the Danville Manufacturing Company Limited of the sum of $506.52, with interest thereon, at the rate of 5 per cent per annum, from the date of loss, viz. May 8, 1916, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Claimant.

OTTAWA, February 6, 1931.

CASE 1738—E. T. BARTLETT

This claim arises out of the destruction of the ss. *Lusitania* on May 7, 1915, by enemy action, in circumstances which are well known.

Claimant was a second class passenger aboard proceeding to England on a business trip. He was thrown into the water when the vessel went down and, losing his life belt, manager to cling to wreckage for some three or four hours until he was picked up. At that time he was about fifty-five years of age. He had been engaged in business in Toronto as an investment broker and was in the enjoyment of a net income of from $5,000 to $6,000 per annum.

As a result of his experiences at the time of the sinking of the vessel, claimant states that his eyesight has been permanently injured and that he is not now, and has not been able for some considerable time to attend to business. He claims for such condition damages in the sum of $40,000, and also claims for the loss of his personal effects valued at $750. The claim for personal injuries is advanced on the basis of medical and hospital expenses incurred and

incapacity resulting from the injury. The medical evidence establishes clearly that claimant's present condition is very serious. He is suffering from glaucoma in an advanced stage and is quite unfit for any work, his disability being stated as total. He has had frequent hemorrhages of the eyes and three operations for this condition and has consulted specialists not only in England but in this country as well. Dr. Alexander McDonald of Toronto was heard and in his opinion this condition could be attributed to the shock and mental stress of the incidents described by claimant. There would appear to be no reason to doubt that claimant's present condition is in great part the result of the exposure and strain of his experiences when the *Lusitania* was torpedoed. There is, however, a suggestion that claimant may have been predisposed to trouble from his eyes, and I do not think, therefore, that his present condition is wholly due to the cause ascribed.

I find the claim for loss of personal effects reasonable, having regard to the position in life of claimant. I find also that his claim for hospital and medical expenses has been established, and I would allow on this head a sum of $2,000. For impairment of health and general loss of earning capacity, I consider the claimant entitled to be compensated and I would fix the amount at $10,000, thus making a total amount payable to claimant of $12,750, with interest, at the rate of 5 per cent per annum, on $750 from the date of loss, May 7, 1915, and on the balance from January 10, 1929, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 27, 1931.

CASE 1746—LESTER B. YOUNG

The claimant, a Canadian officer, attached to the Second Construction Company, was in charge of his unit aboard the troop ship *City of Vienna* on July 1, 1918, when that vessel was transporting troops bound, at the time, for Halifax, N.S.

Claimant alleges that they were advised of an enemy submarine in pursuit of them and the vessel was given all the speed she could make to escape. As a result, she ran aground at the entrance to Halifax Harbour. He describes the occurrence thus: "They made all possible speed to get into Halifax and they missed the entrance to Halifax Harbour in the fog and went aground at, I believe, they call it Sambro Head."

He claims for the loss of his civilian personal effects, including silverware, to an amount of $1,250, and explains that he had obtained permission (verbal) from his Commanding Officer to have these effects aboard with him inasmuch as he intended to reside permanently in England. They were contained in two trunks and were never recovered by claimant after the vessel ran aground.

Claim is also made for injury to claimant's health as a result of his experiences, in an amount of $15,000, which is put forward as an aggravation of his previously disabled condition.

It appears that claimant, for a time, was in receipt of a pension for war disabilities previously sustained by him, 5 per cent for mastoid and 15 per cent for gall stones, or the result of operations for these troubles. He now complains of an indefinite trouble in his right side which has prevented him from working. There is no medical evidence to substantiate this claim apart from a very general affidavit of Dr. J. S. Green of Hamilton.

I have had the advantage of referring to the decision and file of the Dominion Wreck Commissioner, Captain L. A. Demers, who held an inquiry into the stranding of the *City of Vienna*.

While reference is made to warnings of the presence or possible presence of submarines in the vicinity, the loss of the vessel is attributed to an excusable error of judgment of the master in failing properly to appreciate the fog signals which he received. It moreover appears, from this record, that the property loss aboard the vessel, before she finally broke up, was due to depredations committed by residents in the vicinity. The claimant's effects which he declares were aboard were probably lost or stolen in this manner.

In this state of the record, I am compelled to conclude that the claimant has failed to establish that the loss of his effects, or the impairment to his health of which he complains, was in any way due to enemy action following his experiences aboard the *City of Vienna*. Moreover, he was, at the time, on duty as a soldier and cannot in any sense be regarded as a civilian.

His claim must, accordingly, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 15, 1931.

CLAIM 1753—MRS. ETHEL M. BATSTONE

This claim arises out of the presumed destruction by enemy action of certain personal effects and household furniture shipped from England in March 1918 addressed to the claimant at Qu'Appelle, Saskatchewan.

The claimant is a British subject, married in England, who came to Canada to reside permanently in 1918. She had previously been out in 1915. Her husband served during the war and finally returned to Canada in 1918. They were only permitted to bring with them a certain portion of their effects. Early in 1918 their household effects, comprising also some antiques which had been collected by the claimant over a number of years, were packed and shipped from claimant's former home, over the London and Southwestern Railway Company to Liverpool and via Canadian Pacific Railway steamer to the address indicated. The fact of the actual packing and shipment of these goods is established by affidavits produced of record. Since that time there has been no trace of these goods and the claimant, in support of her contention that they were destroyed by enemy action, produces a letter from her mother, dated in March, 1918, to her husband, stating that they had been advised that morning, March 24, 1918, by the Canadian Pacific Railway Company that the "vessel on which claimant's effects were shipped had been torpedoed and everything lost."

It has been impossible to obtain the name of the ship or any other particulars of the shipment or loss. The articles in question were insured for £200 and the Insurance Company paid the loss to the claimant.

In these circumstances, is it possible to draw the inference that the articles in question were, in fact, destroyed by enemy action?

I have given the matter very careful consideration and, having regard to the apparent good faith and honesty with which the claim was put forward by claimant and her demeanor at the hearing, I feel that I may justifiably draw the conclusion that these goods were in fact lost as a result of enemy action.

In the original statement of claim, the value of these effects is declared at $5,110 and a list has been produced indicating that some of the articles were antiques of great value and had been in the family for many years. Having regard to the apparent station in life of the persons concerned, I am of opinion that this is a true statement.

An independent valuation of some of the articles has been furnished by the certificate of John Sinclair, appraiser and valuator, of Vancouver. The total sum stated by him, with the list of the effects as to which he gives his opinion,

amounts to $1,930. The claimant herself very frankly states that she is unable to say exactly what articles were included in the shipment and has also difficulty in fixing a valuation.

In this state of the record it is extremely difficult to determine what is the actual monetary loss sustained by claimant. I am inclined to accept the valuation furnished by Mr. Sinclair and to add thereto the sum of $1,000 covering the effects not comprised in his valuation, making a total sum of $2,930, as against which, however, there must be deducted the amount of insurance received by claimant—approximately $1,000.

On the whole, having regard to all the circumstances of the case, I would recommend payment to the claimant of a total sum of $2,000, with interest thereon, at the rate of 5 per cent per annum, from the presumed date of loss, as shown in letter received from claimant's mother, namely, March 24, 1918, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 23, 1931.

CASE 1773—J. ERNST & SON, LTD.

This claim arises out of the destruction of the ss. *Stephano* by enemy action on October 8, 1916. The loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has already been the subject of awards made by the previous commissioner (Cases 1211, 1277, 1278).

The claimant is a Canadian corporation, organized under the laws of Nova Scotia, and was engaged in the fishing industry. In the month of October claimant shipped aboard the *Stephano*, consigned to V. Marrone & Company of Utica, N.Y., 59 drums of codfish, bills of lading covering the shipment being duly received for the shipment. These facts are proven by the evidence of S. A. Ernst, Esq., Vice-President of the vendor company, and by letters from the consignee acknowledging the bills of lading and advising of the loss of the vessel. The amount claimed, $649, represents the loss to claimants, made up of the value of the fish, $9.14 per quintal (128 pounds), cost of package, labour and freight, or a total of $11 per quintal.

I see no reason to doubt the accuracy of these figures which are testified to by Mr. Ernst as representing the true value of the shipment. I would, accordingly, recommend payment to claimant of the amount stated, $649, with interest thereon, at the rate of 5 per cent per annum, from the date of loss, October 8, 1916, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 21, 1930.

CASE 1787—ARTHUR E. JENKINS

This claims arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy submarine. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

The claimant, then a boy, was accompanying his mother and sister home to Canada where they had previously resided. His presence aboard is proven by the passenger list. The claimant's mother, Mrs. Kate Jenkins, moreover, received an award (Case 900) from the late Dr. Pugsley, for the loss of her personal effects. The claimant appeared before Dr. Pugsley, in support of his

mother's claim. Claim is now made for $300 representing clothing, money, baggage and books in the possession of claimant and which were lost. He explains that he did not present a claim at the time his mother's case was heard because he considered he would be afforded an opportunity at a later date.

While there may be some question as to whether the articles lost were the property of the claimant, who was quite young, or more properly belonged to his mother, I am disposed to allow the claim at the amount shown. I would, accordingly, recommend payment to claimant of the sum of $300, with interest thereon, at the rate of 5 per cent per annum, from September 4, 1915, to date of payment. (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 24, 1931.

CASE 1790—A. DE M. MELLIN AND WIFE

This claim arises out of the destruction of the Irish Mail Packet ss. *Leinster*, on October 10, 1918, by enemy action in the Irish sea. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports.

The claimants, both Canadians, were passengers aboard the *Leinster* from Kingston to Holyhead. Capt. Mellin had been serving with the English Army Transport Service Corps, and had been invalided out of the army. He was returning to his home in Victoria, B.C., with his wife, and they were bringing with them all their personal effects and belongings. Claimants had been married on January 27, 1915, and had left immediately for England where Capt. Mellin joined up with the Imperials.

Previous to their departure for Canada, claimants had been residing in Ireland. Mrs. Mellin had with her many of her wedding presents and all of her personal effects. After very distressing experiences in the water when the vessel went down, Mrs. Mellin sustaining a fractured collarbone, the claimants were rescued, but lost all their effects. No claim has been made for personal injuries. It is clearly shown that claimants were aboard at the time of the loss of the vessel.

Detailed list of the effects lost have been filed by both claimants with approximate valuations of these articles. Claim is made by Capt. Mellin for $304.50 covering his personal effects, and by Mrs. Mellin for $1,930. I have carefully scrutinized the statements submitted, and do not regard the amounts claimed as excessive. I would, accordingly, recommend payment to Capt. Mellin of $304.50, and to Mrs. Mellin of $1,930, with interest upon both sums, at the rate of 5 per cent per annum, from October 10, 1918, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 24, 1931.

CASE 1791—R. W. LOCKWOOD

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

The claimant, a resident of Canada since 1911, had been in England and was returning home. His presence aboard is proven by his own statement, corroborated by letter from the owners stating that their records show he was a passenger aboard.

Claim is now made for $514.50 representing the value of personal effects and money in claimant's possession and which were lost. A claim was also advanced for personal injury, due to exposure, but this was not pressed and no medical evidence was adduced. The value of the effects listed does not appear to be excessive and has been certified by claimant to be correct. I am disposed to allow the claim as presented and would, accordingly, recommend payment to him of $514.50, with interest thereon at the rate of 5 per cent per annum, from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 24, 1931.

CASE 1792—GEORGE A. SCOTT

This claim arises out of the destruction of the ss. *Arabia* on November 6, 1916, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports.

The claimant, a Canadian, at the time in the Imperial service in Mesopotamia, mailed to his mother in Canada several packages of articles, consisting of souvenirs and mementoes which he had bought while in the East. He was at the time in hospital at Deololi, Mesopotamia. He obtained the usual postal receipts for these parcels, which are filed of record. He was later advised by the postmaster in Bombay, India, that these parcels had been lost aboard the *Arabia*. While the original letter from the postmaster is not produced—it had been destroyed—claimant produces leaves from his personal diary, kept at the time, referring to the despatch of the parcels and the advice received of their loss.

Claimant places a value of $250 upon the articles lost, which consisted of ebony and ivory elephants, silks and other articles of similar nature. He testifies that the sum claimed represents the amounts he paid for the articles, and I see no reason to doubt the accuracy of his statement.

I would, accordingly, recommend payment to claimant of the sum of $250, with interest thereon, at the rate of 5 per cent per annum, from November 6, 1916, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1794—STUART J. JUFFS

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by previous commissioners.

The claimant, a resident of Canada since 1911, had gone to England for the funeral of his father. He was returning to Canada with his brother and was bringing with him his personal effects and also certain family articles which he had received in the division of his father's estate. The presence of the claimant aboard is proven by his own statement and by certificate produced showing that his name appeared in the list of passengers, in the "Mail & Empire," Toronto, recounting the loss of the vessel.

Claim is now made for $911 representing personal effects and family heirlooms comprising the share of claimant in the division of his father's

property. Detailed list of these effects have been produced, duly attested, and claimant has testified that he had them aboard with him and that their value was as stated. I see no reason to doubt the claimant's statement and do not consider that he has over-valued the effects lost. I am disposed to allow the claim as presented and would, accordingly, recommend payment to claimant of the sum of $911, with interest thereon, at the rate of 5 per cent per annum, from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 24, 1931.

CASE 1815 MRS. JEAN CHERET

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports, and her loss has been the subject of numerous awards by previous commissioners.

Claimant was originally a Belgian. She had come to Canada in October, 1912, at which time she was the wife of a Belgian, but at the time of her return to Canada in 1915, a passenger aboard the *Hesperian*, she was a widow, Madame De Ribour. On February 8, 1916, she became the wife of John Cheret, a naturalized British subject residing at Hillcrest, Alta. Her marriage certificate, as also certificate of naturalization of her husband, have been produced of record.

Claim is made for the loss of personal effects to a value of $475, including cash $60. The presence of claimant aboard is proven, and I consider the valuation placed upon the effects she declares to have lost reasonable, and that she should receive an award for the amount claimed. I would, accordingly, recommend payment to claimant of the sum of $475, with interest thereon, at the rate of 5 per cent per annum, from September 4, 1915, to date of payment.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1817 MRS. E. ADCOCK

This claim arises out of the destruction of the ss. *Hesperian* on September 4, 1915, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports and her loss has been the subject of numerous awards by the previous commissioners.

Claimant, a British subject, resident in Canada since 1913, was a passenger aboard the *Hesperian*. Her name appears in the passenger lists and her husband was advised by cable that she had been saved, as appears from original cable filed of record and identified by him.

Claim is made for the loss of claimant's personal effects to an amount of $500. She had been recently married and had some of her wedding presents with her, some jewelry and practically all her wearing apparel. I do not regard the amount claimed as excessive, and I would, accordingly, recommend payment to claimant of the sum of $500, with interest thereon, at the rate of 5 per cent per annum, from September 4, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 23, 1931.

CASE 1852—SYDNEY ELLIOTT

This is a small claim relating to the loss of $30 forwarded by registered letter by claimant's father in England to the Manufacturers' Life Insurance Company in Toronto, in payment of premium upon life insurance policy on claimant's life.

Claimant, a Canadian, was then on military service in the Mediterranean, and his father, in England, was attending to his affairs. It is alleged that the remittance consisted of three ten dollar bills, and that the letter containing them was lost when the *Arabic* was destroyed by enemy action on August 19, 1915. That the *Arabic* was lost, as indicated, is established, and while the evidence that the letter in question was aboard her and was destroyed is very meagre I am inclined to accept it as proving the fact. Claimant was obliged to pay the amount again, and so sustained loss to the extent of $30.

I would, accordingly, recommend payment to him of the sum of $30, with interest thereon, at the rate of 5 per cent per annum, from August 19, 1915, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1863—ROBT. J. FRIZZELL

This claim arises out of the destruction of the Irish Mail Packet ss. *Leinster* in the Irish sea on October 10, 1918, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports as also by award made in claimant's favour by the British Royal Commission for Suffering and Damage by Enemy Action.

The claimant's wife was a passenger aboard and lost her life when the vessel was torpedoed. Claimant put forward a claim before the British Commission and was awarded £36 for loss of personal effects, which was paid to him on March 15, 1924. He was then resident in Ireland. His claim for the loss of his wife was disallowed on the ground that dependency has not been shown. These facts are proven by correspondence exchanged with the office of the Canadian Custodian in London, England.

In these circumstances this Commission cannot reopen the case so dealt with and it must be disallowed. There is, moreover, a serious question as to whether this Commission would have jurisdiction, in any event, because the status of claimant as a Canadian on the material dates has not been satisfactorily established. It is, however, unnecessary to deal with this question now, in view of the decision above come to.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CASE 1944—THOMAS RAINEY

This claim arises out of the destruction of the ss. *Governor* on March 14, 1917, by enemy action. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty reports.

Claimant is a British subject, born in Ireland. He came to Canada on October 31, 1910, and on his own statement "purchased his discharge from the Imperial Navy to join the Canadian Navy." He was at the time of the loss a petty officer engaged in the training services. He was returning to Canada as

a passenger aboard the *Governor*. When the vessel was destroyed by the German raider *Moewe*, he, with others, was taken aboard the raider as a prisoner. After being held aboard 14 days he was landed at Kiel, and remained a prisoner in Brandenburg Camp until November 26, 1918.

He claims for the loss of his personal effects, a sum of £40.2.0, and an unstated sum for privation while a prisoner. It developed, at the hearing, that claimant had put forward a claim before the Royal Commission on Compensation for Suffering and Damage by Enemy Action, in England, and had been granted an award of £8.0.0.

No medical evidence has been furnished as to any disability resulting from claimant's imprisonment, and I consider that claimant has failed to establish a ground of recovery before this Commission. He was an enlisted naval rating and cannot qualify as a civilian claimant. Moreover, his claim has been dealt with by the British authorities, and we are without jurisdiction to entertain it. I must, therefore, disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

CLASS "D"

Claims for Damage Caused by Air Raids

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3 CASES

CLASS "D"

CLAIMS FOR DAMAGE CAUSED BY AIR RAIDS

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1423	Mrs. W. J. Barager	Personal injury in air raid	32,000 00	12,000 00
1425	Mrs. L. M. Keir	Personal injury in air raid	700 00	Withdrawn.
1434	Mrs. Geo. Madison	Personal injury in air raid	750 00	500 00

CASE 1423 - MRS. W. J. BARAGER

This is a claim for personal injuries resulting from an enemy air raid at Folkestone, England, on May 25, 1917. The claimant, then Miss Maud Flower, aged 17 years, was employed in her uncle's store at Folkestone. While attending customers at the counter a bomb was dropped on the store, wrecking it and claiming a number of victims, amongst whom was the claimant. She was very badly injured by shrapnel, a portion piercing her stomach and entering the liver. Her left arm was broken and shrapnel was afterwards removed therefrom. She also received a piece of shrapnel in her lung, where it is still lodged.

As a result of this experience, Mrs. Barager was confined to hospital for many months and has since required medical attention practically continuously. Her chief complaint at the present time is with regard to her arm, which is smaller than the other and still gives her considerable pain. The fact of the air raid and the injury to persons in the vicinity is clearly established by reports from the British authorities and by the testimony of claimant and her husband. I understand also that claims were made by other sufferers and awards granted by the British Reparations Commission.

The claimant is English born. She became a Canadian by the fact of her marriage to a Canadian soldier on June 20, 1918, and came to Canada with her husband upon his return to this country on January 14, 1919. He had been invalided to England from France and was serving on the Instructional Staff at Witley at the time of the air raid in question. As a matter of fact he was present with the Medical Officer who removed the wounded from the store where the claimant was injured and he, himself, carried the claimant to the ambulance. It was some eight months later that he actually met her.

A claim was presented on behalf of claimant, by her step-father, to the British authorities but in some manner which is not entirely clear it never received consideration and when further attention was requested, it was found that the claim had not technically been received within the proper period of limitation and could not be considered. The claim was brought to the attention of the late Dr. Pugsley, but because of the nationality of the claimant, as then understood, it was sent to England and, as above stated, arrived too late to be considered. My immediate predecessor, Mr. Friel, had the matter before him and made this statement: (pp. 557) "On the face of it, the claim seems to be a deserving one and it seems to me that a wrong would be done if the matter were thrown out because of lack of jurisdiction." I agree entirely and consider the claim to have great merit. Mr. Friel recommended that the Canadian Government seek to have the British Government reopen the case. From the record it would appear that all efforts to have the matter considered failed.

There is no question, from the medical evidence, that claimant was grievously injured and still carries with her permanent disabilities. Her left arm is 1¼ inches smaller than the right and is partially paralyzed, a piece of shrapnel still remains imbedded in her left chest and a portion of the liver was removed during the operation to extract shrapnel therefrom. Prior to her harrowing experiences claimant had been physically strong, was active and alert in mind and body. She has been at very heavy medical expenses as a result of her injuries estimated to exceed $3,000. She has moreover been unable to attend her ordinary household duties through weakness and illness due to her injuries. The claim, as presented, is for $32,000, covering medical expenses, permanent injury and expense caused through her incapacity.

For the reasons expressed in Opinion Nos. 1 and 2 and having regard to the station in life of the parties, and the nature of the injuries, I would recommend payment to claimant of a lump sum of $12,000 to cover her entire claim, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment.

EROLL M. McDOUGALL,
Commissioner.

OTTAWA, January 18, 1931.

CASE 1425—MRS. L. M. KEIR

This claim, as its docket number will indicate, was filed with the previous commissioner but was not dealt with. The claim is for personal injuries alleged to have resulted from an air raid during the month of August, 1917, at Ramsgate, England.

Claimant declares that she suffered a nervous breakdown at the time. For medical attention consequent thereupon, and for ill health, she claims $700.

The claimant was notified to appear at the Calgary sittings of the Commission but failed to do so. A letter was received from her, dated November 23, 1930, stating that she did not desire to press the claim.

This claim is, therefore, considered withdrawn.

EROLL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1434—MRS. GEORGE MADISON

This claim, as its docket number will indicate, was filed with the previous commissioner, but was not dealt with because claimant failed to appear. The claim is for personal injuries resulting from an enemy air raid at John Bulls Oldhams Printing Works, Longmore, W.C. England, on January 28, 1918.

The claimant, then a girl of 17, was a munitions worker and was injured in the left breast and ankle by shrapnel at the time of the explosion. Substantiation of her statement to this effect is furnished by the testimony of Mrs. F. E. Bradshaw, who was present and witnessed the bombing and the injury to claimant. It appears also, from the medical record, annexed to the file lodged with the British authorities, that claimant was permanently incapacitated from January 28, 1918, to April 28, 1918, and partially from April 28 to June 28, 1918.

Claimant is British born, but became the wife of George Madison, a Canadian, born in Lindsay, Ont., on March 26, 1919. She came out to Canada with her husband shortly thereafter. They are now living in Rochester, N.Y., where her husband is employed by the Eastman Kodak Co. The evidence is that he is still a British subject.

Claimant originally claimed a sum of $150 for her injuries. She declares that she still suffers somewhat from the injury to her ankle, but no medical evidence has been adduced in support of this contention. In view of the medical certificate given at the time, or shortly after the air raid, I consider that I am only justified in awarding her a sum to cover her temporary disability. The evidence is very meagre, but I think claimant is entitled to an award of $500, and I would, accordingly, recommend payment to her of this sum, with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 11, 1931.

CLASS "E"

Losses Arising out of the Halifax Explosion, Collision, Fishermen Warned Off the Fishing Banks and the Destruction of Nets and Fishing Gear by Mine Sweeper

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15 CASES

CLASS "E"

LOSSES ARISING OUT OF THE HALIFAX EXPLOSION, COLLISION, FISHERMEN WARNED OFF THE FISHING BANKS, AND THE DESTRUCTION OF NETS AND FISHING GEAR BY MINE SWEEPER

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1735	Mrs. R. Carroll	Loss of lives of children killed in Halifax Explosion.	Unstated	Disallowed.
1748	Mrs. Susan Johnson	Loss of life of mother killed in Halifax Explosion.	780 00	Disallowed.
1941	John William Cox	Personal injury in Halifax Explosion.	11,000 00	Disallowed.
1653	Wm. A. Murray	Collision between SS. *Deliverance* and a Norwegian vessel. Claims for effects.	300 00	Disallowed.
1743	Fabian Bona	Collision between SS. *Bramble Leaf* and tug boat. Claims for effects.	Unstated	Disallowed.
1799	Amasa Nickerson	Collision between SS. *Deliverance* and a Norwegian vessel. Claims for effects.	573 00	Disallowed.
1800	Eldridge Nickerson	Collision between SS. *Deliverance* and a Norwegian vessel. Claims for effects.	250 00	Disallowed.
1805	Wilbert Hemeon	Collision between SS. *Georgia* and an unnamed vessel. Claims for effects.	Unstated	Disallowed.
1658	George Buchanan	Warned off the Fishing Banks. Claims for loss of time.	400 00	Disallowed.
1661	John Buchanan	Warned off the Fishing Banks. Claims for loss of time.	500 00	Disallowed.
1663	Walter Burke	Warned off the Fishing Banks. Claim for loss of time.	860 00	Disallowed.
1689	Reginald C. Buchanan	Warned off the Fishing Banks. Claims for loss of time.	400 00	Disallowed.
1717	William J. Harding	Warned off the Fishing Banks. Claims for loss of time.	500 00	Disallowed.
1731	Lawrence Myatt	Destruction of fishing nets by mine sweepers. Claims.	265 75	Disallowed.
1803	Edward Burke	Destruction of fishing nets by mine sweepers. Claims.	200 00	Disallowed.

CASE 1735—MRS. R. CARROLL
1748—MRS. SUSAN JOHNSON
1941—JOHN WILLIAM COX

Three claims have been submitted seeking compensation for damages sustained as a result of the Halifax explosion which occurred on December 6, 1917. My predecessors were unable to find that this terrible disaster was in any way due to enemy action (Cases 1564 *et seq.*) and, as far as I am aware, nothing has since developed which would justify a finding that the explosion was due to any other cause than the involuntary collision of the French steamer *Mont Blanc* and Belgian relief ship *Imo*. In these circumstances I concur in the decisions of my predecessors and hold that these three claims resulting from the Halifax explosion do not fall within the purview of this commission, and must, accordingly, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 4, 1930.

CASE 1653—WM. A. MURRAY
1799—AMASA NICKERSON
1800—ELDRIDGE NICKERSON

These three claims arise out of the loss of the mine sweeper *Deliverance* as a result of being accidentally rammed by a Norwegian vessel on June 15, 1917, at Snow Harbour, N.S. Wm. A. Murray, who died on January 17, 1930, filed claim for the loss of his effects while employed aboard the *Deliverance* as cook. The claim is continued by his widow. There are no particulars of record establishing the loss of the vessel, but from other information available I find that she was lost in the manner stated. The other two claimants were aboard the vessel as cook and seaman respectively. They have filed claims for the loss of personal effects.

The collision which forms the basis of the claim cannot, in my opinion, be attributed to direct enemy action. That it resulted indirectly "in consequence of hostilities" is true, but this is not sufficient to base a claim for compensation under the relevant sections of the Treaty of Versailles, by which this commission is governed. The cases are analogous to the losses resulting from the Halifax explosion (Case 1735), and in some respects to claims made for loss of fishing equipment, destroyed by mine sweepers (Case 1731), in both of which instances the claims were disallowed. I am, therefore, compelled to disallow these three claims.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 4, 1930.

CASE 1743 FABIAN BONA

The claimant, Fabian Bona, a Canadian, was a member of the crew of the tug boat *W. M. H. Murray*, which came into collision with the British steamer *Bramble Leaf* in Halifax harbour in 1917, in consequence whereof the tug boat was sunk and claimant lost his personal effects.

The foregoing statement of fact is taken from a letter of claimant dated September 22, 1930. He was notified to appear before the commission at its Halifax sittings, but failed to take advantage of the opportunity to present his claim, which must, therefore, fail for want of proof.

It may be well to add that on the above statement of fact, claimant would have been unable to establish a case of loss due to enemy action.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 18, 1931.

CASE 1805—WILBERT HEMEON

The claimant, Wilbert Hemeon, was a member of the crew of the ss. *Georgia*. He has filed no sworn declaration, but appeared before the Commission at its Shelburne sittings.

From his testimony it would appear that the *Georgia* was run down and sunk during the night. The date of the loss is not stated. They had been warned that submarines were in the vicinity but there is no evidence to establish that the loss of the vessel is attributable to the enemy. The crew left the vessel hurriedly and were taken aboard another vessel and landed in Boston. Claimant cannot state the name of the vessel which picked them up. In these circumstances I can make no allowance to the claimant. He has failed to establish any enemy action and his claim, therefore, fails.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 23, 1930.

CASE 1658—GEORGE BUCHANAN
1663—WALTER BURKE
1661—JOHN BUCHANAN
1689—REGINALD C. BUCHANAN
1717—WILLIAM J. HARDING

Five claims have been submitted for loss sustained by fishermen who were warned to leave the fishing banks because of the fear of enemy activities. These damages consist in loss of time and loss of the anticipated catch of fish. Undoubtedly the fishermen concerned did sustain damage as a consequence of thus being compelled to abandon the means of earning their livelihood, but after very careful scrutiny of the relevant sections of the Treaty of Versailles, I cannot find that losses of this character are chargeable to the enemy as having been caused by an act of war. Such damage, in common with like losses and inconveniences suffered by the entire civilian population, is to be regarded as a necessary accompaniment of war and too remote to be made the subject of compensation. These five claims must, therefore, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 23, 1930.

CASE 1731—LAWRENCE MYATT
1803—EDWARD BURKE

These two claims have been submitted by fishermen who had sustained loss and damage as the result of their nets and fishing equipment being destroyed by mine sweeping operations of which they had not been advised in time to enable them to raise their nets, etc. The claim is formulated as follows, by one of the claimants (Case 1731):—

"The usual custom was for the mine sweepers to clean the channel (which was situated from the lightship off Halifax Harbour to Halifax) between the buoys. During November, 1915, this usual custom was carried out, and then, without notice being given to the fishermen to remove their nets, the mine sweepers removed buoys and swept entire surface, taking everything with them."

There is no question that claimants did suffer damage in the manner indicated, but the difficulty is to ascribe such loss to enemy action. The loss resulted from measures taken and designed to protect shipping in general, by our own auxiliary vessels of war, and must be regarded, I fear, as one of those unfortunate incidents of the war which cannot, directly, be attributable to the enemy. The only ground upon which claims of this nature could be supported would be under clause 9 of First Annex to Section (1) of Part VIII of the Treaty of Versailles. Close scrutiny of the section will show that the property now in question was neither "carried off, seized, injured or destroyed by the acts of Germany." The concluding words of the section, "or damage *directly* in consequence of hostilities or of any operation of war," cannot avail claimants, because, in my view, this was merely an indirect consequence of hostilities. These two claims must, accordingly, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, December 4, 1930.

CLASS "F"

Miscellaneous Losses Comprising Claims for Civilian Internment, Business Losses, Etc., Munition Explosions, Goods Lost in Enemy or Occupied Territory, and Claims Not Substantiated

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38 CASES

24035—10

CLASS "F"

MISCELLANEOUS LOSSES COMPRISING CLAIMS FOR CIVILIAN INTERNMENT, BUSINESS LOSSES, ETC., MUNITION EXPLOSIONS, GOODS LOST IN ENEMY OR OCCUPIED TERRITORY, AND CLAIMS NOT SUBSTANTIATED

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
704	J. F. McParland	No particulars	Unstated.	Disallowed.
1290	George F. Schmarje	Loss of inheritance in Germany during the war.	7,000 00	Disallowed.
1333	W. Constantin	Claimant dissatisfied with award made by Serbian Government.	Unstated...	Disallowed.
1337	Bruce E. Cameron	Claims for effects left in Dresden upon interment.	2,000 00	Disallowed..
1340	Adolf Flachs	Claims for goods seized by German troops in Bucharest.	Unstated.	Disallowed.
1359	H. L. Taylor	Seamen seized at Hamburg, and interned. Claims for loss of wages and effects lost.	4,498 90	Disallowed.
1590	James Macdonald	No particulars. Case referred back to England.	Unstated...	Disallowed.
1598	C. Lapierre	Loss of business profits	Unstated...	Disallowed.
1599	Mrs. Louis Langevin	No particulars	Unstated...	Disallowed.
1600	Edwards, Morgan & Co	No particulars	Unstated...	Withdrawn.
1618	Anthony Baker	Claims for injury as a munition worker in England.	5,000 00	Disallowed.
1651	Mrs. Richard Pattison	Detention in Austria and impaired health.	4,400 00	Disallowed.
1656	Adolf Armbruster	Interned civilian claims for expenses incurred.	4,000 00	Disallowed.
1685	Rev'd. Abbé Eugène Delisle	Claim for interment	13,800 00	5,000 00
1694	Wilfred E. Rose	Claims for business losses occasioned by the war.	Unstated...	Disallowed.
1696	William Dickens	Claims for injury in a munition explosion.	12,600 00	5,000 00 (*ex gratia*)
1700	Mrs. David Hamilton	Claims for property burnt by soldiers in Canada.	1,725 00	Disallowed.
1715	Mrs. Mary Lawley	Injury received from Canadian soldier.	Unstated.	Withdrawn.
1721	Timothy J. Scanlon	Claims for clothing stolen whilst horseman.	200 00	Disallowed.
1727	Leonard Brothers	No particulars	Unstated...	Withdrawn.
1734	Oliver Nichols	Claims for incidental expenses in connection with the war.	100 00	Disallowed.
1736	John W. Gaunt	Canadian interned	3,580 00	
		Claims for loss of salary, cost of maintenance, travelling expenses and loss of effects.	500 00	340 00
1741	Mrs. Sadie MacKenzie	Husband unable to go to sea owing submarine menance.	Unstated...	Disallowed.
1742	Walter C. Baner	Claims for business losses occasioned by the war.	Unstated...	Disallowed.
1744	Mrs. A. H. Dickie	Claims for loss of two soldier sons.	Unstated...	Disallowed.
1751	R. J. Graham	Premises burnt by incendiary	60,000 00	Disallowed.
1756	Miss C. M. Buck	Internment by Canadian Police	Unstated...	Disallowed.
1795	Miss M. E. Cross (Mrs. M. E. Copeman).	Detained in Germany. Loss of earnings and certain expenses.	2,567 52	500 00
1801	M. J. Piron	Claims for effects seized in Belgium and certain expenses.	1,408 00	868 00
1812	Trenton Explosion Cases	Thirteen claimants claim for damage to property caused by munition explosion.	Unstated...	Disallowed.
1816	Mrs. L. H. Munn	Claims for loss of trunk of effects of soldier, etc.	500 00	Disallowed.
1821	F. W. Burgess	No particulars	Unstated...	Withdrawn.
1823	Mrs. C. D. Warren	Claims for effects left in Germany.	1,520 00	Disallowed.
1840	Mrs. Agnew [illegible]	Claims for loss of son on active service.	Unstated...	Disallowed.

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MISCELLANEOUS LOSSES—*Concluded*

Case	Claimant	Nature of claim	Amount claimed	Decision
			$ cts.	$ cts.
1901	Daniel Rabbitt	Claims for premises burnt by Incendiary.	4,157 00	Disallowed.
1979	John B. Rose	Claims for loss of civilian clothing of soldier stolen by Germans.	166 60	Disallowed.
2065	Simon Leiser	Claims for destruction of property in Canada by mob.	15,875 42	Disallowed.
2268	Joseph Sommer & Sons	Claims for a pre-war commercial transaction.	Unstated...	Disallowed.

CASE 794—J. F. McPARLAND

This claim, as its docket number will indicate, was filed before the previous commissioners.

The claimant was notified to appear in May, 1924, but did not do so, and his claim was disallowed. He was again notified of the first Toronto sittings of the commission in the first week in November, 1930, and again for the second Toronto sittings on November 28, 1930.

The registered notices sent to claimant were received by him according to advices received from the Toronto office of Greenshields & Company. He has not availed himself of the opportunity to present his claim in person and there is nothing to substantiate it. I am, therefore, compelled to disallow it.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1290—GEORGE F. SCHMARJE

This claim, as its docket number will indicate, was filed with the previous commissioners. The claimant, a naturalized British subject resident in Canada, born of German parents, filed a declaration in August, 1925, claiming for property and cash left by his mother in her will, which was presumably confiscated by the German Government. The estimated value of his inheritance is approximately $7,000.

Registered notices sent to the claimant at his last known address have failed to reach him, but, irrespective of this on the facts as stated, the claim does not appear to come within the jurisdiction of this commission. I am, therefore, compelled to disallow it.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1333—W. CONSTANTIN

This claim, as its docket number will indicate, was filed before the previous commissioners, but was not dealt with because claimant could not be located.

The claimant, a British subject, naturalized in Canada asserts that his claim for war damage had been unfairly assessed by the Serbian authorities.

His complaint was forwarded by the British Legation at Belgrade on August 17, 1922, with a statement to the effect that efforts made by the British Vice-Consul to locate the claimant had been unsuccessful.

On the face of the record the claim has received consideration from the Serbian authorities, and, moreover, as claimant has failed to appear in support of his claim to establish he was a British subject resident in Canada during any portion of the war period I am compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1337—BRUCE E. CAMERON

This claim, as its docket number will indicate, was filed with the previous commissioners, but was not dealt with. The claimant, who was resident in the United States, filed an application for claim on January 7, 1919, stating that at the outbreak of war he was resident in Germany and was interned by the German authorities for a period of four years, being released on November 22, 1918. He alleges that he was not permitted to take anything with him and therefore lost his trunks, clothing, furniture, music, manuscripts, etc., for which he claims $2,000.

There is no evidence that the claimant ever was a Canadian and repeated efforts to locate him have been unavailing.

There is doubt whether the claim itself comes within the jurisdiction of this commission. For these reasons, it must be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1340—ADOLF FLACHS

This claim, as its docket number will indicate, was filed with the previous Commissioners, but was not dealt with.

The claimant was born in Bucharest, Roumania, in 1886, came to Canada in 1904, and was naturalized at Winnipeg on December 21, 1910. He returned to Roumania in 1915 and has resided there permanently ever since.

He complains that his factory in Bucharest was seized by the enemy and his goods seized.

The British authorities, in Roumania, decided that he was not a British subject on the following grounds:—

(1) That he had no intention of returning to Canada.
(2) That he had forfeited his right to be considered a British national.

Clearly, claimant has no standing before this commission and his claim must, accordingly, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1359—HUBERT L. TAYLOR

This claim, as its docket number will indicate, was filed with the previous commissioners, but was not dealt with.

The claimant is a British subject, born in Lancashire, England, in 1878, and came to Canada to reside in 1919. As a seaman aboard the ss. *Hull*, which was in Hamburg, Germany, at the outbreak of war, he was made prisoner and interned at Ruhleben during the war.

He filed a claim with the British Reparation Claims Department, London, England, prior to his leaving England, claiming for loss of earnings $3,100, loss of personal effects $150 and loss of parcels $1,000, a total of $4,250.

The Reparation Claims Department made an award to claimant of £125.0.0 in satisfaction of his claim.

He can have no further claim before this commission and I am compelled to disallow it.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1590—JAMES McDONALD

This claim, as its docket number will indicate, was filed with the previous commissioners, but was not dealt with.

The claimant filed a declaration with the British Reparation Claims Department, and this case, with others, was referred to Canada by that department. Subsequently in December, 1923, all the documents relating to this claim were returned to the Reparation Claims Department, at its request, for action.

Claimant did not appear, there are no particulars of the claim on file, and I am, for these reasons, compelled to disallow it.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1598—C. LAPIERRE

This claim, as its docket number will indicate, was filed with the previous commissioners, but was not dealt with

The claimant wrote in December, 1921, wishing to make application for compensation apparently for loss of business profits resulting from the war. Owing to the vagueness of his request, a declaration form was sent him for completion, but has never been returned.

In October, 1930, registered notice of hearing was sent to claimant's last known address, but no reply has been received nor has he appeared to present his claim.

In these circumstances I am compelled to disallow this claim for lack of prosecution.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1599 -MRS. LOUIS LANGEVIN

This claim, as its docket number will indicate, was filed with the previous commissioners, but was not dealt with.

The claimant wrote in January, 1924, requesting a Declaration Form for completion, which was sent in February, 1924, but has never been returned. In October, 1925, registered notice was sent to her last known address asking her to appear before the commissioner to present her case. She failed to do so, and, again, in October, 1930, further registered notification was sent to her, without result. I am, therefore, compelled to disallow her claim for lack of prosecution.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1600—EDWARDS, MORGAN & COY.

This claim, as its docket number will indicate, was filed with the previous commissioners, but was not dealt with.

A notice of claim was filed on June 22nd, 1923, by claimant but no particulars have ever been furnished.

The claimant was notified to appear before the Commission at the November sittings in Montreal, and in response, a letter was received stating that the company wished to withdraw the claim.

The claim is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1618—ANTHONY BAKER

This claim is based upon an alleged Zeppelin air raid at Woolwich, England, on October 9, 1915, as a result whereof claimant sustained injuries to his right arm, necessitating its amputation.

The claimant, a British subject, was resident in Canada before the war. He was an expert machinist. In response to a call for skilled munition workers by the British Government he went over and was engaged in the works of Messrs. Pittor at Woolwich, as a machine turner, making gauges. His claim is thus stated: "While employed as munition worker in Pittors Engineering Works, Woolwich, England, on October 9, 1915, my right arm was so badly injured as the result of an explosion caused by a Zeppelin raid that it had to be amputated near shoulder". In his evidence claimant is unable to throw any light upon the occurrence and merely says that the first thing he knew he was up in the shaft and was "under the impression that it was an explosion." Reports have been obtained from England as to the alleged Zeppelin raid, but the information obtained would indicate that the injury to claimant was the result of an industrial accident, in respect whereof he has received compensation from the Workmen's Compensation Board. The report of the accident, as furnished by the owners of the plant, reads as follows: e of accident, October 8, 1915, about 8.30 p.m. How caused?—Caught u y belt of machinery and thrown round shaft several times. Name of employed person—Anthony Baker....."

In these circumstances it is impossible to say that the injury to claimant resulted from any enemy action. His mere assertion that he thinks it must have been due to an explosion probably due to an air raid, does not furnish a basis upon which to make an award. I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1651—MRS. RICHARD PATTISON

This claim is presented by a British subject, born in London, England, her maiden name being Anna Grace Roberts. She is now the wife of Richard Pattison and resides in Toronto. She first came to Canada on March 11, 1920. Her claim results from internment in Vienna, where she was in service as a domestic servant, at the outbreak of the war. She claims the loss of her entire savings, part of which were deposited in a Vienna bank, owing to depreciation in currency value and amounts expended to buy food. She also claims for unpairment to her health due to the conditions under which she was compelled

to live. There is no complaint of maltreatment during the period of her enforced stay in Vienna, but the poor and inadequate food is said to have brought on a weakened and anaemic condition which has injuriously affected her health.

The medical evidence in support of her claim is not conclusive, and, while it is true she is in a run down and highly nervous condition at present, I cannot say, from the record, that this results from her experiences in Vienna. Even were it so, I would still have difficulty in recommending an award, because I do not feel that any direct enemy action has been shown. The mere fact that food was difficult to obtain in enemy countries during the war is a general condition which cannot form the basis of a reparation award. I am also of opinion that her claim for loss of savings cannot be maintained under any of the provisions of the Treaty of Versailles.

I have dealt thus fully with the case to show that upon the merits claimant could not succeed, but there is an inseparable obstacle to an award in claimant's favour. She came to Canada for the first time on March 11, 1920. For the reasons explained in Opinion No. 1, by this fact alone she is without right in making claim for reparation as a Canadian; she must have recourse to the tribunals set up by the British authorities. I have, reluctantly, been compelled to adopt this course in a number of cases. I must, therefore, disallow this claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 28, 1931.

CASE 1656—ADOLF ARMBRUSTER

This is a claim for damages resulting from detention in Germany during the war, and is stated at the sum of $4,000.

The claimant was born in Germany and lived there until he emigrated to the United States in 1886, where he resided, in the state of Montana, and became naturalized as an American citizen. In the year 1906 he came to the province of Alberta, filed on a homestead in due course, applied for naturalization as a British subject and was granted a certificate on June 18, 1910, as appears from certificate filed of record. This certificate bears the usual qualification that he is not entitled to avail himself of such naturalization when within the limits of the Foreign State of which he was a citizen. He would not, therefore, be a British subject while in Germany.

Claimant alleges that in the spring of 1914 he left for Germany to visit his family, and intended to bring a sister out to Canada with him. When war was declared he was arrested by the German authorities at Baden-Baden, where he was living, and kept in Rastat internment camp for two days. Through the influence of his partner, one, Henry Neuhauser, a German reservist, who had been associated with him in Germany, the United States and Canada, he was released and permitted to reside with his sister at Baden-Baden. He was detained for a period of two years, when, finally, he succeeded in returning to the United States, where he was compelled to remain for a year before being permitted to re-enter Canada. He returned to Alberta in the spring of 1917.

As a result of these experiences he claims the said sum of $4,000, on the basis of "loss of time—three years—from 1914-1917". He states that he was compelled to draw from his bank account in Wetaskiwin his entire savings account, amounting to $4,500, to maintain himself during the period of his detention. The state of this bank account is extremely confusing. As appears from affidavit of the Manager of the Imperial Bank at Wetaskiwin in March, 1914, there was standing to claimant's credit a sum of $2,900 which was with-

drawn during 1914 and 1915 in full. At the same time there was also standing to the credit of Henry Neuhauser a credit for $1,188.90, which also was withdrawn at approximately the same dates. Claimant declares that both these accounts were his, and that while one of them stood in Neuhauser's name the latter had no real interest therein. The explanation of this banking account is far from satisfactory, and I have not been satisfied as to the reasons given for claimant's trip to Germany at that time, nor as to the forcible detention he complains of and in respect of which he makes claim.

Quite apart from the doubtful question of claimant's nationality at the time of his detention, I do not consider that he has succeeded in making out a claim for loss resulting from enemy action. That he made no use of his Canadian citizenship is evident from his own statement that he urged his American citizenship, which he no longer possessed, in his efforts to return to America.

On the whole I am unfavourably impressed with the claim, and I, accordingly, disallow it.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

CASE 1685—REVEREND ABBE EUGENE DELISLE

The claimant, a Canadian, born in Quebec, was ordained to the priesthood of the Roman Catholic Church in the diocese of Quebec in the year 1913. Previous to the outbreak of the war he had been studying in Rome, taking an advanced course in theology.

In October, 1914, he was at Lille, France, continuing his studies, when he was advised by telegram from His Eminence Cardinal Begin to proceed to Rome to follow a two years' course in Canon law. He was prevented from leaving Lille, by the occupation of that part of France by the German forces, and was held as a civilian prisoner from October 11, 1914, till October 18, 1918. It is clearly demonstrated by the evidence of record that claimant was a young man of brilliant talents who gave promise of attaining a high position in his chosen vocation. He was studious, energetic, alert and endowed with unusual intellectual capacity. His health was excellent.

During the period of his internment by the Germans, efforts were made by Cardinal Begin, through the good offices of the King of Spain, to have claimant repatriated on the ground that, being a priest, he was not subject to internment. None of these efforts were availing and claimant, in addition to the curtailment of his liberties, found himself subjected to indignities and deprivations which were without reason. He was thus compelled to suffer visitation by police officials, he was even struck in the face on one occasion, by a German officer, because he happened to be at the head of a body of civilians who were singing patriotic songs. That he gave succour to civilians, because of the harshness of their treatment by the enemy is proven and, as a result, he was suspected by the authorities and made to suffer for his kindly and humanitarian actions. Lille was within the fighting zone for a great period of claimant's detention and he was exposed to shell fire and on one occasion was slightly wounded, when the building in which he lived was bombed.

As a result of these experiences, imposed upon him without warrant or excuse by the enemy, claimant's health was injuriously affected and his capacity to work seriously impaired. The medical evidence, on this score, is quite conclusive and is supported by the testimony of associates and friends who knew him before and after his internment. I consider his own statement, that his capacity for concentrated work has been permanently impaired, is borne out by the medical evidence.

Claimant asserts a claim in the sum of $13,800 which he particularizes as follows:—

Loss of salary, four years at rate $1,200 per annum..	$4,800
Illness during internment.....	2,000
Indignities and condemnations, etc.....	3,000
Damage to his career and lost prospects.....	4,000
	$13,800

In principle, internment of an enemy alien is not illegal in enemy or occupied territory, but in the present case, there is ground for complaint in the fact that claimant, by reason of his vocation, was exempt from military service. The position was aggravated by the refusal to liberate him after the representations made on his behalf. It is manifestly difficult to estimate in dollars and cents the indignity and humiliation which claimant suffered—his distress was very real, his sufferings intense. It must be borne in mind, however, that many British subjects were exposed and suffered equally—the war bore heavily upon all classes of the community.

In view of all the circumstances I consider that claimant is entitled to an award in damages for impairment to his health resulting from his internment. I would, accordingly, recommend payment to him of a sum of $5,000 with interest thereon at the rate of 5 per cent per annum from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 9, 1931.

CASE 1694—W. E. ROSE

This is a claim for business losses said to result from war conditions. The claimant, a British subject, long resident in Canada, advances the claim on behalf of a company, known as the Sturgeon Coal Company, incorporated in the province of Alberta. Claimant was the president of the company, which is now defunct. He alleges that by reason of the war and the curtailment of the operations of the company consequent thereupon, the company was unable to comply with the conditions governing the leases of its coal lands, and was compelled to relinquish its holdings. In his own language, "the general demoralization of everything annulled our lease in every way, our men joining up and so on". The investment made in the property was lost, and claimant advances the claim on his own behalf, as a shareholder, and also on behalf of the remaining shareholders.

Obviously, the basis upon which the claim is asserted does not give rise to an award in damages. Whatever losses were sustained were indirect, and cannot be considered under any of the provisions of the Treaty of Versailles relating to reparations. The claim must, therefore, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

CASE 1696—WM DICKENS

This claim arises out of an explosion in a munitions plant at Chatham, N.B., on March 6, 1916.

The claimant, a Canadian, was employed in nosing shells at the time of the explosion. He explains that about 11 a.m. on March 6, 1916, there was a sudden report and he knew no more. The plant was completely destroyed. He was in hospital for six months and has undergone several operations. He

was frightfully injured and bears marks to this day which cannot but arouse the deepest sympathy. To bring the claim within the scope of this commission it would be necessary to show that the explosion resulted from enemy action and this I cannot find has been established. Suspicions were aroused that enemy spies brought about the explosion, but there is nothing definite, nothing upon which I could base an inference that direct enemy action was in any way involved. The Chief of Police of Chatham was examined and said all that could be said in this connection, but could not even venture the decided opinion that the occurrence was anything but accidental. His letters, which are of record, add nothing to his testimony. The claimant has received no compensation for his injury from any source—that he is totally and permanently disabled is clear not only from the medical evidence, but from his physical appearance.

I have given this claim very thoughtful consideration, but am reluctantly compelled to disallow it because of failure to establish that the injuries resulted from enemy activities. His is a necessitous case and while I can make no recommendation that he received compensation on the ground claimed, I yet feel disposed in the special circumstances, and, in so far as such recommendation may be competent to me, to suggest that an *ex gratia* payment of $5,000 be made to him.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, November 20, 1930.

CASE 1700—MRS. DANIEL HAMILTON

This claim is rather unusual and presents some distressing features. With a view to doing her share in the war, the claimant, who is a Canadian and the wife of a Nova Scotia mariner, assisted in the care of the soldiers at a sanatarium. She carried on this work for two years, when she returned to her own home at Lower Argyle, N.S., apparently taking with her for care and attention private Wilfrid Lawley, who had been invalided home, gassed. Another soldier also resided with her at this time. She received no board for these men and treated them at all times with the greatest consideration. Lawley, while not addicted to liquor, at times acted very strangely. After he had been with the claimant about two years, her house was set on fire and suspicion was directed to Lawley. The origin of the fire was never definitely determined. A portion of the claimant's house and some of her household effects were destroyed and, as she had no insurance, it was a total loss.

On the ground that the loss so sustained was brought about by the war, the claimant presents a claim stated at the sum of $1,725, which includes loss of effects due to the fire, physical incapacity resulting from the shock, charges for domestic help during that time and expenses for hospital, medical attention and observation.

That the claimant did suffer loss is evident, but unfortunately for her, I cannot find that such loss results from any act of enemy warfare. The injury sustained by claimant was caused, if the evidence justified the finding, by the acts of Canadian soldiers, which can only be regarded as an indirect consequence of the war. With great regret, therefore, I am compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 7, 1931.

CASE 1715—MRS. MARY LAWLEY

The claimant desired to submit a claim for reparation, but when a claim form was forwarded to her she decided that her claim did not come within the jurisdiction of this commission. She alleges that she suffered an injury inflicted by a blow from a Canadian soldier during the war period.

This claim is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1721—TIMOTHY J. SCANLAN

This is a claim for the loss of a suitcase, gold watch and chain, two suits of clothes and certain personal effects, the whole valued at $200, which claimant alleges were taken from his room in London, England.

Claimant is a Canadian, born in Montreal, and was employed as horseman aboard a vessel said to be the "Knight of the Garter". He had taken his suitcase ashore in London, and when he returned to his room it had been broken into and his belongings gone. Clearly this is a case of theft without any reference to enemy action, and it must, therefore, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 8, 1931.

CASE 1727—LEONARD BROTHERS

The claimants requested particulars for the filing of a claim relating to losses aboard Canadian schooners. They were notified to appear at the Halifax sittings of the commission in October, 1930.

They did not appear, but wrote stating that they had no claim to file.

This claim is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1734—OLIVER NICHOLS

The claimant filed a claim on November 16, 1930, for loss of wages owing to conditions brought about by the war and also for travelling expenses to Yarmouth and Halifax in connection with a medical examination. He claims the sum of $100.

Claimant did not appear, but it is scarcely likely, in any event, that he could substantiate a claim of this nature. It is, accordingly, disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1736—JOHN WILLIAM GAUNT

Claimant is a British subject born at Lobberich, Germany, of British parents. He came to Canada to reside permanently on June 23, 1919. At the outbreak of war he was employed at Cologne, with the Court Jeweller, earning a salary of $80 per month. He was regarded as a foreigner and compelled to register wherever he went. On August 5 or 6, 1914, he was arrested and taken to the Cologne prison, where he was kept until November 11, 1914. He was then removed to Ruhleben civilian prison camp and remained interned there until April 28, 1916, when he escaped, made his way to Holland and reached England in May, 1916. He was then employed in the Postal Censor service and from certificates which have been filed of record did excellent work and was highly commended for his services. He was finally permitted to resign and come out to Canada on the date indicated. He has definitely established his British citizenship by the production of birth certificates of his parents and himself, and his record in British service clearly entitles him to consideration as such. He now claims a sum of $4,080, made up of loss of salary for 88 weeks at $30 a week, $2,640; cost of maintenance in jail at Ruhleben, $440; preparation outfit and travelling expenses escaping, $500, and loss of personal belongings, $500.

It does not appear that claimant was compelled to work whilst a prisoner, and, while I would not be justified in allowing his claim for loss of wages, as put forward, I do consider that he is entitled to some consideration for his period of imprisonment and the expense to which he was put to maintain himself. I would allow the amount stated as cost of maintenance at Ruhleben, viz., $440. To this I would add the amount claimed as expenses incurred in preparing to escape, and travelling expenses. The evidence as to the loss of his personal effects does not justify an award, because it does not appear they were taken by the enemy. They were merely left with his former landlady and disappeared. I would, accordingly, recommend payment to claimant of the sum of $440 for cost of maintenance at Ruhleben Camp, and $500 for expenses upon escape, a total of $940, with interest thereon at the rate of 5 per cent per annum from the date he escaped, April 28, 1916, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 6, 1931.

CASE 1741—MRS. SADIE MacKENZIE

The claimant declares that her late husband, John MacKenzie, Captain of the schooner *Jane Cox*, was ordered to remain in port during the world war on account of submarine peril.

No amount has been stated, no reasons are given, nor did claimant appear to support her claim. It would appear to have no real foundation and I am compelled to disallow it.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February, 19, 1931.

CASE 1742—WALTER C. BAUER

The claimant advised that he wished to submit a claim for losses to his business, The Maritime Art Glass Works Ltd., through being unable to import from France and Belgium large quantities of plate glass, owing to war conditions.

The claim does not appear to have any merit, and, as claimant did not appear in support, it must be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February, 19, 1931.

CASE 1744—MRS. A. H. DICKIE

The claimant asked to be allowed to submit a claim for reparation. Upon investigation it developed that she wished to claim for the loss of two of her sons who were killed overseas whilst members of the Canadian Expeditionary Force.

The commission has no jurisdiction in cases of this character, and I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February, 19, 1931.

CASE 1751—R. J. GRAHAM

The claimant, a Canadian, long resident in Belleville, Ontario, and an outstanding citizen of that city, presents a claim on behalf of his Company, Graham Ltd., for loss occasioned through the destruction of his plant, at Belleville, by fire on the night of April 10-11, 1917.

Grahams Ltd. were manufacturers of dehydrated vegetables of various kinds, and, during the war, were carrying on an extensive business supplying their product to the British, French and United States Governments for the use of the troops. Very large orders had been received and were in process of manufacture on the date of the fire. It is estimated that the company had on hand about 900,000 pounds of vegetables to be used in the manufacture of its product, the best known of which was Julienne soup and a particular brand of potatoes. The process was secret, the results obtained were very successful, and the company besides doing a very useful war service was making good profits. The company had built an extensive plant in Belleville and also operated other factories—ten in Nova Scotia, one in New Brunswick, a dozen in Ontario, four or five in the Okanagan valley and several in the United States.

The fire broke out and was first discovered at 3.30 a.m. in the lacquer room of the basement of one of the plant buildings (the canning shop). It did not look serious and should easily have been brought under control. About fifteen minutes later a second fire broke out in an entirely separate building across the street (the boxing shop). These buildings were, however connected by an underground passageway. This building contained packing cases. Later again another fire, which appeared to be independent of the preceding blazes, broke out in the cold storage plant, and finally a fourth blaze occurred in the main building, which is adjoining but entirely separate. This would be about 8 a.m., when it appeared as though the original fires had ben mastered. As a result the entire factory was completely gutted and the company suffered loss not

only to its buildings but through the destruction of manufactured products and raw material on hand. The buildings were probably worth about $36,000 but the stock loss was the serious feature of the disaster. These goods could not be replaced. Insurance was received to the extent of $100,000 on the stock and $17,000 on the buildings. Claimant's loss was very inadequately covered by these payments and claim is now made for the difference, the amount whereof has not been definitely determined.

It is not surprising that suspicions were aroused as to the origin of these seemingly distinct fires, and the opinion was formed that they were incendiary in their origins and the result of deliberate enemy activities. Investigations were conducted by the local police and by the Provincial authorities to determine the origin of the fires, but nothing definite was established. Many surmises were made, doubts expressed and suspicions voiced, but the real cause of the destruction of this plant remains shrouded in mystery.

After the occurrence suspicion was directed to a man named Wagner, who, it was said, had originally been a German. He had been and was at the time of the fires an employee of the Graham Company, had married a Belleville girl, and lived with his family at Belleville for some time after the occurrence. He is then said to have disappeared and has not been heard of since. As I have said, his participation in the outbreak of the fires is only a surmise and I would say is too conjectural to be accepted as a fact. In destroying the plant, if he did so, he was also destroying his means of livelihood. Without more convincing evidence it would be eminently unfair to attach the stigma of such an action to this man, as to whose record nothing improper has been shown. Affidavits have been produced from the Chief of the Fire Department of Belleville, William Lynch, and Police Sergeant, Arthur Harman, both of whom were present at the conflagrations. Both state that there were four separate and distinct fires at the plant over a period of three and a half hours. They affirm that the succeeding fires were not caused by sparks from the preceding blazes. They express the opinion that the fires "were set by a malicious and hostile hand and that the deliberate attempt was to destroy a working and productive industry."

Unfortunately for claimant's case, these opinions cannot be supported by evidence, nor can I say that a reasonable inference can be drawn from the facts proved, that the destruction of the claimant's plant was directly due to enemy action. In these circumstances I am compelled to disallow the claim. Had there been a reasonable prospect of success, the claimant would have been given an opportunity to establish more clearly the precise amount of his loss. No useful purpose could be served in furnishing such evidence in view of the conclusion to which, with great reluctance, I have come.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 17, 1931.

CASE 1756—MISS CONSTANCE M. BUCK

The claimant, who was born in Chicago, Illinois, on December 25, 1889, filed a claim in October 1930 alleging that she was interned, by the Police authorities in Toronto, Canada, from September 11, 1917, to November 24, 1917. She claims an unstated amount.

The record is silent as to the cause of the alleged arrest, and there is nothing to indicate in what manner this commission could assume jurisdiction. I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1795 MRS. M. E. COPEMAN (MISS M. E. CROSS)

The claimant, Canadian born, was at Pisek, Austria, when the war broke out. She had gone over some time previously to complete her musical education as a concert violinist. Upon the completion of her course, just about the time war was declared, she had entered into a contract to do some concert work in Sicily but was unable to fulfil the engagement because she, with other aliens, was detained by the Austrian authorities. Claimant was compelled to report periodically, but was not otherwise interfered with. She was finally allowed to leave after about six months' detention, and returned home via New York.

Claimant puts forward a claim in the sum of $2,567.52, made up of $750 for cancellation of concert tour in Sicily, $1,125 prospective earnings lost due to internment, $375 board during 25 weeks, and two small items of expense aggregating $45. The balance of her claim, up to the sum indicated, was withdrawn at the hearing as not having been properly included in her statement.

The evidence as to the amounts claimed is not satisfactory. Loss of future earnings cannot be allowed, nor can the expenses incurred by claimant during internment, as stated, constitute a valid claim, except perhaps in a very general way. She was receiving remittances from home to defray her expenses. I do consider that claimant did suffer some damage as a result of her internment, and although the evidence of pecuniary loss estimable under the law is insufficient to support a substantial award, the facts stated and the justifiable inferences therefrom do give ground for some compensation. I would, accordingly, recommend payment to Mrs. M. E. Copeman (formerly Miss M. E. Cross) of $500, with interest thereon, at the rate of 5 per cent per annum, from January 10, 1920, to date of payment (Opinion No. 4).

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 13, 1931.

CASE 1801 M. J. PIRON

This claim relates to losses sustained by claimant as the result of his internment in Belgium for the period of the war.

Claimant and his wife were born in Belgium. He came to Manitoba in 1903, became naturalized as a British subject on March 12, 1913, and continued to reside at St. Laurent, Manitoba, until February, 1914, when, accompanied by his wife, he went to Belgium on a six months' visit. He had arranged for return accommodation to Canada for August 10, 1914. Shortly after the declaration of war, and prior to August 10, 1914, railway communications between his home and Antwerp were cut off and he was taken and remained a prisoner in occupied territory until the close of the war. He had great difficulty and sustained considerable expense in obtaining transportation back to Canada, but finally succeeded in leaving the country in May, 1919. His claim is for loss through confiscation, or taking of his property by the enemy, and expense incurred by reason of his detention, to a total amount of $1,048.

A claim was presented to the Belgian authorities, but was declined on the ground that claimant was an "American."

There is filed with the claim a detailed list of the goods taken from claimant, comprising a shotgun, 22 Remington rifle, revolver, 10 cords of wood, silver fox fur, and a quantity of tanned hides which claimant had purchased for the purpose of making and repairing boots. Claimant has established the value of this property at $398, and is, I consider, entitled to recover the amount. As to his claim for additional expense in returning to Canada, amounting to $650, I am of opinion that there should be deducted therefrom the sum

of $180, cost of transportation which he had purchased originally, and in respect whereof he should have obtained a refund. That the steamship company from which he purchased this transportation is insolvent, does not, by that fact, render the claim valid at the present time.

I would, accordingly, recommend payment to claimant of the sum of $868, with interest thereon, at the rate of 5 per cent per annum from January 10, 1920, to date of payment (interest allowed from this date because actual time of taking not shown). (Opinion No. 4.)

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 17, 1931.

CASE 1812—TRENTON EXPLOSION

This case, involving claims by thirteen persons resident at or near Trenton, Ont., arises out of the complete destruction of the British Chemical Company's plant, by explosion, in February, 1918. At that time the plant was engaged in the manufacture of munitions of war.

Two of the claimants, J. F. Simmons and Barton Westfall, farmers, residing from a mile and a half to two miles from the plant, appeared before the Commission at its sittings in Belleville. They claimed damages to their properties—and, I understand, the other claims are identical—as a result of the explosion. They allege that their orchards were completely ruined and their houses damaged by the explosion and the escape of noxious fumes. They do not particularize their damages and their testimony is very vague as to their losses. They were not present at the plant when the explosion occurred. That it was due to enemy action is merely hearsay as far as they are concerned. The only other evidence tending to show enemy action consists in the affidavit of Ernest R. Cunnell, sergeant of police employed at the plant as such at the time, and affidavit of Charles B. Baker, also sergeant of police at the works, who merely corroborates generally what Cunnell has to say. These affidavits throw very little light upon the occurrence. The opinion is expressed that the explosion was caused by "the deliberate or negligent conduct of some of the employees about the plant unfriendly to the cause of the Allies." This opinion is based upon supposed or suspected activities of certain employees, but I cannot say that the recital would warrant the conclusions drawn in the affidavits.

It is stated by claimants that some claims for damages were paid, and it would appear that if settlements were made, it was by the Imperial Munitions Board.

In this state of the record, I cannot allow the claim and must declare that there is no evidence establishing enemy action. Neither is the evidence sufficient to permit of an inference being drawn that enemy action was involved. For convenience of reference I list the claim spoken to at the hearing by counsel representing claimants:—

A. E. Baker,
William Curtis,
Louis L. Dickson,
Thos. Gothard,
Wm. Hilaire,
J. W. Hess,
A. W. Mayers,
J. B. Weller,
Alexander Wilson,
Barton Westfall,
E. J. Carr,
Mrs. Helen Caverley,
J. F. Simmons.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1816—MRS. L. H .MUNN

This claim is for loss of personal and household effects said to have been sent from England to Canada by the claimant in August, 1918. She is unable to name the vessel by which they were transported, declaring simply that the box or trunk was shipped by Messrs. Carter & Patterson of London, England.

Claimant is a British subject, and had been resident in Canada before the war with her husband, who was a sergeant in the Canadian Expeditionary Forces. She had gone to England on a visit, and finally returned to Canada, apparently in 1918, on the *Tunisian*.

The file in this matter is not available, and would appear to have been mislaid while in the hands of the Militia Department. The only evidence furnished is that of the claimant and her husband, and neither of them are able to throw any light upon the matter.

In this state of the record, without more specific proof as to the manner in which the goods were lost, I cannot find that claimant has sustained loss as the result of enemy action. I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 20, 1931.

CASE 1821—F. W. BURGESS

The claimant intimated that he desired to submit a claim for reparation. He was requested to appear at the Toronto sittings of the commission during the first week in November, 1930, but failed to do so. Subsequently the claimant wrote, withdrawing his claim.

The claim is, therefore, considered withdrawn.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 19, 1931.

CASE 1823—MRS. CHARLES D. WARREN

This is a claim for loss of goods left in Germany at the outbreak of war and never since recovered. The claimant, at the outbreak of war, was residing at Dresden, Germany, with her two daughters, Frances, aged ten years, and Mrs. Ruby Marguerite Gooderham. These ladies were permitted to leave Germany, but were not allowed to take their belongings with them. They made arrangements to store their household and some personal effects with a warehouseman named Alfred Kohn, who undertook that he would deliver the goods at the end of the war. Nothing more was heard of these goods, except that in 1916 an account for storage was received by claimant but was not paid because of the existence of a state of war.

The value of these effects is declared to be $1,520, detailed statement whereof has been filed. The claimant, through illness, was unable to appear at the hearing, but was represented by her daughter, Mrs. Gooderham, who testified to the foregoing facts and corroborated the valuation placed upon the effects lost. I cannot find that these articles were lost as a result of any enemy action. They were stored with a warehouseman and, as a strict matter of law, if he cannot produce them he is responsible for their value. That the amount due by him cannot now be recovered may be due to the state of war which existed, but does not, under the relevant sections of the Treaty of Versailles

with which I am alone concerned, give claimant a claim for reparations. If claimant had been able to prove that the goods had been seized by the German authorities, I would be inclined to view the claim differently. I must, accordingly, disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, January 24, 1931.

CASE 1840—MRS. AGNES DEDEMUS

This is a claim for the death of claimant's son, who was killed overseas whilst serving in the Canadian Expeditionary Force.

The claimant was advised that this commission has no jurisdiction to entertain the claim. It is, accordingly, disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

CASE 1904—DANIEL RABBITT

This claim arises out of the destruction by fire of a grain elevator at Daysland, Alberta, on February 6, 1915, alleged to have been due to enemy activities.

The claimant is a Canadian, and in 1915 owned and operated a grain elevator at Daysland, Alberta. On the night of February 6, 1915, fire broke out in this elevator, destroying the property. Claimant sustained loss, in excess of insurance moneys recovered, amounting to $4,157, for which sum he now makes claim.

The origin of the fire is unknown, but the claim is advanced upon the theory that it was incendiary in nature. Claimant himself names one Wagner, a grain inspector in the employ of the Alberta Pacific Grain Company, as the perpetrator of the outrage. It is alleged that Wagner was of German origin and intensely sympathetic to the cause of the enemy. No direct evidence has been brought forward, and I cannot say that anything more than a suspicion has been created that Wagner was in any way connected with the occurrence. An investigation was instituted by the officials of the Royal Canadian Mounted Police, and I have had the advantage of perusing the reports submitted. These reports do not throw any definite light upon the matter. Without entering upon a detailed analysis of these reports, it may perhaps be advisable to quote the conclusion reached by the investigating officer. He says: "If this fire was the work of an incendiary, there are only two persons against whom there are any suspicions—Rankin and Wagner. Of these two I am convinced in my own mind that Rankin is innocent, but there are very grave doubts about Wagner. Unfortunately, his movements cannot be traced so well." It will be seen, therefore, that there are merely "very grave doubts" as to Wagner, and upon a perusal of the premises upon which the report is based, I am inclined to the view that the doubts may not be as grave as stated. No proceedings were ever instituted against Wagner, as undoubtedly would have been done had there been any evidence to justify this course. The claimant alleges that he had caught the travelling inspector for the same Company setting fire to another elevator, and yet, as far as the record goes, no complaint was ever lodged against him. He infers that this man and Wagner were in collusion, on the assumption that Wagner had enough money to enlist the assistance of the travelling inspector in his nefarious schemes.

In this state of the record, without more direct evidence as to the origin of the fire, I cannot find that it resulted from enemy activities, nor would I be justified in drawing the inference that such was the case. I am, therefore, compelled to disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

24035—11½

CASE 1979—JOHN B. ROSE

This is a claim presented by a Canadian officer, who was a prisoner in Germany. It relates to personal effects which were lost or stolen shortly before the Armistice in 1918.

Claimant was transferred from Saarbrucken Camp to Coblenz on November 8, 1918. He was unable to take all his effects with him and left what he could not carry with the German authorities to be forwarded to Coblenz. When he left for England on November 26, 1918, his effects had not been delivered at Coblenz. The kit he had with him was stolen during the revolution which there took place. These facts are certified to by the senior British ranking officer at Coblenz under date of November 20, 1918.

The effects so lost by claimant are valued at $165.60, and comprised wearing apparel and personal effects of a non-military character which claimant had received from home during his imprisonment and had purchased in Germany. The evidence does not justify a finding that the articles left at Saarbrucken were seized, taken or destroyed by the enemy; it is more probable that they were lost in the confusion that existed in Germany at that time. The loss of property at Coblenz is attributable to the revolution which took place in that city, and cannot, I consider, be ascribed to such enemy action as is contemplated by the relevant reparation sections of the Treaty of Versailles.

I would, accordingly, disallow the claim.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

CASE 2065—SIMON LEISER

This is a claim for damage and loss to the business premises of Simon Leiser & Co., Ltd., at Victoria, B.C., by Canadian soldiers and civilians on May 15, 1915.

Simon Leiser & Co., Ltd., was a Canadian company, carrying on a wholesale business in Victoria, B.C. The company's then president, Simon Leiser, was a German by birth but had been a resident of Canada for 45 years and had been naturalized as a British subject many years before the war. He was highly regarded in the community and was engaged in a very successful and profitable business.

Public opinion became greatly inflamed as a result of the sinking of the *Lusitania* on May 7, 1915, and, it is alleged that on May 15 a body of civilians, led by a number of Canadian soldiers in training at Victoria, began a riotous demonstration directed against all persons of German origin. The premises of Leiser & Co., Ltd., were looted and merchandise to a value of $11,312.37 stolen and destroyed, with damages to the premises and fixtures to an amount of $1,063.05. It became necessary to close the warehouse, and a further amount of $3,500 is claimed for loss of business. The total claim is placed at $15,875.42.

The loss so sustained cannot be regarded as directly due to enemy action, and does not fall within the scope of the relevant provisions of the Treaty of Versailles dealing with reparations. The claim must, accordingly, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

CASE 2268—JOSEPH SOMMER & SONS

This is a claim arising out of damage to a package of goods shipped in 1912 from Hamburg, Germany, to claimants in Victoria, B.C. The goods had been insured by the shippers, for account consignees, and at the time of the outbreak of war the Insurers had agreed to make settlement. Claimants allege that the war intervened and that they were not able to complete the settlement with the Insurance Company. They now assert claim for the value of the goods, said to amount to 1000 marks.

It was pointed out to claimants at the hearing that this Commission could not entertain the claim; that the loss had occurred before the war, and the fact that payment of the claim by the Insurers was withheld because of the existence of hostilities could not be regarded as a damage resulting from enemy action. Upon consideration, the view so expressed is confirmed. The claim must, therefore, be disallowed.

ERROL M. McDOUGALL,
Commissioner.

OTTAWA, February 25, 1931.

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