

Black Tom

The decision given on the 15th June was a decision unfavourable to Germany: but it is not - technically - the final decision, since it merely allows the American claim for a re-hearing. Whether in present circumstances that re-hearing will take place (in the absence of a German Commission, & of German witnesses whose journey might well be deemed both too hazardous and entirely futile) seems to me very doubtful.

But the point is that the case is not yet over and I consider therefore that no useful purpose will be served by our taking the action suggested at this stage. Perhaps it will be worth while informally asking the S.D. if the re-hearing is at all likely to be held in absentia of the Germans: and then reply as the above lines.

AWM
27/ix

E.A. (over)
Chancery

I am not quite clear as to the legal position. May it not be that the decision of 15th June does amount to a decision of principle in favour of the claimants, and that it only remains for them to establish their individual claims? This they would do as a matter of course, though there may be still a long row to hoe before they get any money.

Could Mr Foster advise on this?

J.P.
30/9

The decision was for a rehearing but the ultimate success of the U.S. claimants is indicated by that part of the decision (underlined) which states that "on the record as it now stands the claimants' cases are made out" (see other passages also). It seems that the claimants can not get any money without a decision in their favour; consequently it would be to their interest to have a rehearing. If the Germans have no witnesses the U.S. claimants are even more likely to win.

Should not the State Dept be asked

- a) If there is going to be a rehearing
- b) If their promise of 1929 still

holds. As Germany's success is very unlikely the S. Dept's excuse that this success would make the English coys claim academic no longer has much weight; consequently some assurance is required that the English coys claim will again be considered between the final decision on and payment to the U.S. claimants

J Foster 2.10.39

Q: action as suggested by Mr Foster at (a) and (b). I think it had better be begun early and might be started with a telephone call to Mr. H. H. Martin (14) counsel to the U.S. Agency of the Mixed Claims Commt.

J.A. again.

AM
2/2

I agree just
So do I
M.

Mr. Martin is not available: Lt. Mr. Frank, in the German Div., after enquiries told me for our confidential info. that the Commission was expected to take final action without further publicity and without further notice of the Germans - though he could not, of course, say what the Commission's decision would be.

In the circ. action at (b) above might now be taken.

? Letter from HE or Mr. Baker to Judge Moore.

Seen by Mr. Foster's
Draft AM
3/2