Black Tom

The decision given on the 15th June was a decision unfavourable to Germany, but it is not technical, the final decision, since it merely allows the American claim for re-hearing, whether or not it will be held that no hearing will take place (in the absence of a German commissioner) seems to me very doubtful.

But the point is that the case is not yet over and I consider therefore that no purpose will be served by taking the action suggested at this stage. Perhaps it will be worth while inquiring informally as to whether, if the re-hearing is at all likely to be held in absence of the Germans, it is necessary to reply on the above lines. A.C.

27th Oct

E.A. (sum C) Chancery
I am not quite clear as to the legal position. May it not be that the decision of 17th June does amount to a decision of principle in favour of the claimants, and that it only remains for them to establish, if indeed, the amount of their individual claims? This they would do as a matter of course, though there may be still a long way to go before they get any money.

Could it foster advice on this?

J.P.

The decision was for a releaseing but the ultimate success of the claimants is indicated by the fact of the decision (undecided) which states that "on the record as it now stands the claimants appear to have made out their case". It seems that the claimants can not yet any money without a decision in their favour, consequently it would be to their interest to have a hearing. If the German case is not represented and there are witnesses the claimants are even more likely to win. Should not the War Dept. be asked:

a) If there is going to be a hearing.

b) If their procedure of 1949 still holds.

Cust. As Germany's success is very unlikely the War Dept. to secure that this success would make the claimants' claim academic not large, has much weight; consequently some assurance conveyed that the claimants claim would again be considered between the final decision and payment to the claimants.

[Date 2, 1039]
O: action as suggested by Mr. Foster at (a) and (b). I think it had better be begun quietly and might be started with a telephone call to Mr. H. H. Martini (file) (wire) to the U.S. Agency of the Mixed Claims Council.

E H. again.

I agree 3/0.

So do I.

Mr. Martini is not available; but Mr. Hanke, in the German team, after confining him for over confidential information that the Commission was expected to take final action without further publicity and without further notice to the Germans — though he could not, of course, say what the Commission’s decision would be.

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

Letter from HE or Mr. Hanke to Judge Moore. Done by Mr. Foster. Draft 3/4.