DEPARTMENT OF THE SECRETARY OF STATE

REPARATIONS, 1930 - 1931

SUPPLEMENTARY REPORT

To His Excellency The Governor General in Council,

May it Please Your Excellency:

I have the honour to submit the following Supplementary Report:-

At the time of my Interim Report, submitted on March 6th, 1931, there remained 57 civilian claims still to be determined. The present Report is designed to dispose of these remaining cases. With the exception of three, in which the records are not yet complete, decisions have now been reached and recommendations made in all these cases.

The Commission held a sitting at St. Catharines, Ontario, where the Armenian claims, the subject of my Special Report, dated May 9th, 1931, were heard. A session was also held at Toronto, beginning on April 9th and continuing to April 22nd, at which a large number of claims presented by prisoners of war asserting maltreatment at the hands of the enemy were heard. It was thought advisable to defer consideration upon these claims until they had all been heard, the better to assure uniformity of treatment, and for the additional reason that the evidence in many instances threw light upon the cases of other claimants who had been interned in the same prison camps. It was also necessary to obtain medical history sheets, pension records, and, where available, statements made by claimants upon repatriation, all of which has taken considerable time. 340 of these cases have now been completed, and I am immediately proceeding to give them consideration. In this work the Commission has had the advantage and benefit of the cooperation, as Medical Assessor, of Dr. J. P. S. Cathcart, Chief Psychiatrist to the Department of Pensions and National Health.

In addition to the sessions referred to, the Commission also conducted hearings at Montreal, on May 21st and 22nd, and at Ottawa, on June 23rd and 24th.

In this Report I find that the following fourteen claims fall within the First Annex to Section (1) Part VIII, of the Treaty of Versailles:-

Case No.	
1204	Stanley A. Abbott
1292	D. & J. Sadlier & Co.
1611	R. A. McLelland & Forwarders Ltd.
1612	Mrs. G. McCarthy
1691	James L. Oliver
1720	Estate Mary A. Barr, dec'd.
1723	Wm. Brodie
1730	G. E. Parke
1860	Thos. J. Kendall
1942	J. C. Buckle
1945	Wm. D. Deans
1973	Misses Jessie & Pearl Kay
1976	Estate Rueben Babine, dec'd.
1592	John Muise

This involves an expenditure amounting to $131,014.93 with $95,849.85 estimated interest, at 5% per annum, to July 31st, 1931, a total of $226,864.78.

A large number of the claims included herein have been disallowed for want of prosecution by claimants, but only after very painstaking efforts to have the records completed. It was felt, however, that the outstanding claims should be dealt with and the dockets cleared.

As the matter now stands, the Commission has heard 669 cases, of which, including the present report, 326 have been disposed of. This leaves the military maltreatment cases and three civilian claims yet to be considered.

All of which respectfully submitted for Your Excellency's consideration.

Ernest Lapointe

Commissioner.

Ottawa, July 21st, 1931.

Folios 3 to 5
inclusive

SUPPLEMENTARY REPORT

Civilian Claims

Case	Claimant	Nature of Claim	Amount Claimed $	Decision $
855	S. J. Carle, deceased	Claim for loss of life of passenger S.S."Lusitania" sunk May 7th, 1915	6,000.00	Disallowed
889	Chas. B. Hanford	Loss of personal effects of passenger S.S."Lusitania" sunk May 7th, 1915	Unstated	Disallowed
984	Reverend G.Isaac	Loss of personal effects of passenger S.S."Hesperian" sunk Sept.4th, 1915	500.00	Disallowed
1019	Mrs. J. McKinley (Rennie)	Loss of life of fireman on S.S."Ladoga" sunk April 16th, 1918	Unstated	Disallowed
1184	Ronald Reith	Loss of personal effects of fireman on S.S."Croesus" sunk July 8th,1918	Unstated	Disallowed
1191	John O'Sullivan	Personal injury to seaman at Dunkirk, France	Unstated	Disallowed
1193	George H. Fowler	Personal injury and loss of effects of passenger S.S."Carpathia" sunk July 19th, 1918	300.00) and (Unstated)	Disallowed
1196	Mrs. Elizabeth Robertson	Loss of life of horseman on S.S."Cabotia" sunk Oct. 23rd, 1916	6,240.00	Disallowed
1198	Moyle Smeltzer	Loss of personal effects of seaman on S.S."Nigeria" sunk March 19th, 1917 and S.S."Fluent" sunk July 18th, 1917	500.00	Disallowed
1199	E. Courtey	Loss of personal effects of seaman on S.S."Clubmore" sunk - date unknown	100.00	Disallowed
1201	Charles Leo	Loss of personal effects of ship's carpenter on S.S."Angelsea" sunk April 24th, 1917	100.00	Disallowed
1204	Stanley A. Abbott	Loss of personal effects of seaman on S.S."Tweed" sunk March 13th, 1918	500.00	500.00
1233	The Hamilton Distillery Co. Ltd.	Loss of merchandise on S.S."Cymric" sunk May 8th, 1916	79,000.00	Disallowed
1292	D. & J. Sadlier & Co.	Loss of merchandise in occupied territory (Belgium)	5,336.68	5,415.88
1335	Thos. J. McManus	Loss of household effects in occupied territory (France)	1,500.00	Disallowed
1341	Chas. E. Leslie	Loss of effects in occupied territory (France)	Unstated	Disallowed

Case	Claimant	Nature of Claim	Amount Claimed $	Decision $
1354	Hugh Miller	Civilian interned in Germany	14,000.00	Disallowed
1416	Auguste Allice	Civilian interned in Germany	Unstated	Disallowed
1431	Mrs. Ada E. Hough	Personal injury in air raid in England	Unstated	Disallowed
1433	J. G. Tinsley	Damage to property in air raid in England	40.00	Disallowed
1546	Geo. A. Cruikshank	Loss of Schooner "Bravo" reported missing Sept. 1915	65,000.00	Disallowed
1582	Mrs. E. C. Gardner	No particulars	Unstated	Disallowed
1611	R. A. McLelland and Forwarders, Ltd.	Loss of S.S. "Port Dalhousie" sunk March 19th, 1916	648,025.00	84,622.80
		Loss of S.S."W.H.Dwyer" sunk Aug. 26th, 1917	635,281.00	28,760.50
1612	Mrs. Gratton McCarthy	Damage to property in occupied territory (Belgium)	704.00	704.00
1673	Mrs. Annie Quirk	Loss of life of seaman on S.S."Donella" lost Oct. 17th, 1917	Unstated	Disallowed
1691	Jas. L. Oliver	Loss of personal effects of seaman on S.S."Dornfontein" sunk Aug. 2nd, 1918	335.00	500.00
1693	Sico Wyllis	Loss of personal effects of Ass't Cook on S.S. "Tyne" sunk June 17th, 1917, and personal injury	150.00) Unstated)	Disallowed
1711	J. J. Holmes	Personal injury to seaman on S.S."Hunsbrook" sunk Dec. 22nd, 1917	Unstated	Disallowed
1714	Homer Laberge	Loss of shipment of hay sent to United States	112,029.62	Disallowed
1720	Estate of Mary A. Barr, dec'd	Loss of life & effects of passenger on S.S. "Hesperian" sunk Sept. 4th, 1915	500.00	500.00
1723	William Brodie	Loss of merchandise on numerous vessels	32,497.25	2,497.25
1729	Edwin H. Still	Loss of civilian effects in London due to air raid	149.50	Disallowed
1730	G. E. Parke	Loss of personal effects of passenger on S.S. "Missanabie" sunk Sept. 7th, 1918	250.00	250.00
1740	Mrs. Patrick Long	No particulars	Unstated	Disallowed
1745	Roland Locke	Fisherman warned off fishing banks	Unstated	Disallowed

Case	Claimant	Nature of Claim	Amount Claimed	Decision
			$	$
1747	Wm. J. Roberts	Loss of life whilst employed in Mercantile Service	Unstated	Disallowed
1769	Miss Robina Moar	Loss of life in Munition Plant explosion	8,888.00	Disallowed
1793	Estate of Howard Hubley, dec'd	Loss of life through collision at sea	5,000.00	Disallowed
1858	Elward R. Gillam	Loss of personal effects of seaman on Schooner "Mayola" sunk Feb. 16th, 1917	568.00	Disallowed
1859	Estate of Capt. John Hamilton, deceased	Loss of personal effects of Captain of Schooner "Mayola" sunk Feb. 16th, 1917	900.00	Disallowed
1860	Thomas J. Kendall	Personal injury and loss of effects of seaman on Schooner "Mayola" sunk Feb. 16th, 1917 and S.S. "Drina" sunk March 1st, 1917	30,570.00	3,000.00
1861	Mrs. M. L. Murphy (H. A. Larkin)	Seaman on S.S."Rochester" sunk Nov. 2nd, 1917 Loss of effects & injury	5,000.00	Disallowed
1864	Mrs. J.W.Black	Loss of luggage on unnamed vessel	200.00	Disallowed
1865	J. W. Belong	Loss of personal effects of fisherman on Schooner "J. J. Flaherty" sunk Aug. 26th, 1918	Unstated	Disallowed
1937	Mrs. Elizabeth Barnes	Personal injury in air raid in England	Unstated	Disallowed
1942	J. C. Buckle	Loss of persoanl effects of seaman on S.S."Avristan" sunk Dec. 6th, 1916 & medical expenses	1,300.00	500.00
1943	A. C. Draper	Personal injury in air raid in England	Unstated	Disallowed
1945	Wm. D. Deans	Loss of personal effects of passenger on S.S. "Missanabie" sunk Sept. 7th, 1918	564.50	564.50
1973	Misses Jessie & Pearl Kay	Loss of life of mate of Schooner "Minas Queen" sunk Aug. 26th, 1917	2,000.00	2,000.00
			2,000.00	2,000.00
1978	Estate of Reuben Babine	Loss of personal effects of fisherman on Trawler "Triumph" sunk in 1918	600.00	600.00

Case	Claimant	Nature of Claim	Amount Claimed	Decision
			$	$
2180	John Naudi	Personal injury & loss of effects of Engineer on S.S. "King George" sunk Dec. 8th, 1916	Unstated	Disallowed
2221	D. F. Yeatman	Loss of parcel on S.S. "Arabic" sunk Aug. 19th, 1915	26.00	Disallowed
2272	John Muise	Loss of personal effects of fisherman on trawler "Triumph" sunk in 1918	600.00	600.00
1692	R. F. James	No particulars	Unstated	Disallowed

Case 815

SAMUEL J. CARLE

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that the claimant could not be located. Further efforts have now been made to have the claimant complete the record, but without success.

Claim is made by the father for the loss of his daughter, a passenger aboard the SS. "Lusitania", the amount stated being £1000. There is nothing in the record to indicate dependency. The claim must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 10th, 1931.

Commissioner.

Case 882

CHARLES B. HANFORD

This claim, as its docket number will indicate, was presented before the previous Commissioner. Originally it had been filed with the British authorities but was transmitted to Canada because claimants were there resident. The claim was not dealt with for the reason that claimants could not be located. It would have been necessary that Administration of the Estate of the deceased be taken out in British Columbia and the claim advanced by the Administrator so appointed. Claimants were so advised, but no action was taken, nor have they taken steps to complete the record since that time.

Claim is made by the brother of the late Wm. G. Bailey and Mrs. Bailey, who were lost when the "Lusitania" went down, for the value of the personal effects of the deceased. There is nothing in the record to substantiate the claim and, it must, accordingly, be disallowed.

Ottawa, June 11th, 1931.

Commissioner.

Case 984

REV. G. ISAAC

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that the claimant could not be located. Since that time efforts have been made to have the claimant complete the record, but without success.

It appears from the record that claimant was a passenger aboard the "Hesperian" and claims for the loss of his personal effects, a sum of £102.16.0. From the statement filed, it is also clear that claimant, while a British subject, was only temporarily resident in Canada for a period of about 4 years, in connection with missionary work, and returned to England. In these circumstances the claim must be disallowed.

Ottawa, June 10th, 1931.

Commissioner.

Case 1019

MRS. JESSIE RENNIE or McKINLEY

This claim, as its docket number will indicate, was presented before the previous Commissioner. It had originally been lodged with the British authorities, but was forwarded to Canada as claimant was then resident here. The claim was not dealt with for the reason that claimant could not be located. Since that time efforts have been made to have the claimant complete the record, but without success.

Claim in an unstated amount is made on behalf of the widow of the late John Rennie, a fireman and trimmer aboard the SS. "Ladoga", who lost his life when the vessel was sunk by enemy action on April 16th, 1918. It appears from the record that claimant received a sum of £300 as compensation under the British Workmen's Compensation Act. It is also indicated that she re-married.

In this state of the record, no award can be made, and the claim is, accordingly, disallowed.

Ottawa, June 10th, 1931.

Commissioner.

Case 1184

RONALD REITH

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that the claimant could not be located. Since that time efforts have been made to have the claimant complete the record, but without success.

Claim is made, in an unstated amount, for injuries sustained by claimant while employed as a fireman aboard the SS. "Croesus", sunk by enemy action on July 8th, 1918. There

is nothing in the record to substantiate the claim, and it must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 10th, 1931. Commissioner.

Case 1191

JOHN O'SULLIVAN

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that the claimant could not be located. Since that time efforts have been made to have claimant complete the record, but without success.

Claim is made, in an unstated amount, for the loss of claimant's left eye and injuries to his left shoulder, injuries sustained, apparently, while in Dunkirk, France. Claimant, while described as a seaman, does not disclose the name of the vessel aboard which he was employed. In this state of the record, the claim must be disallowed.

Ernest Lapointe

Ottawa, June 10th, 1931. Commissioner.

Case 1193

GEORGE H. FOWLER

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that the claimant could not be located. Originally the claim was filed with the British authorities, but was referred to Canada for attention as claimant had become there resident. Since the date of the report made by the

previous Commissioner, efforts have been made to have the claimant complete the record, but without success.

The claim is for loss of personal effects, stated at £60, and an unstated amount for personal injuries sustained by claimant as a passenger aboard the SS. "Carpathia", sunk by enemy action on July 19th, 1918. There is nothing in the record to substantiate the claim, and it must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 10th, 1931. Commissioner.

Case 1196

MRS. ELIZABETH ROBERTSON

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that claimant could not be located. Since that time efforts have been made to have the claimant complete the record, but without success.

The claimant, a widow, makes claim in the sum of $6240.00, for the loss of life of her son, who met his death aboard the SS. "Cabotia", sunk by enemy action on October 23rd, 1916. Deceased was aboard in charge of a shipment of horses.

There is nothing in the record to substantiate the claim, and it must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 10th, 1931. Commissioner.

Case 1198

MOYLE SMELTZER

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that claimant could not be located. Originally the claim had been filed with the British authorities, but was referred to Canada as claimant was Canadian born and resident here. Since the date of the report of the previous Commissioner efforts have been made to have claimant complete the record, but without success.

Claim is made for the loss of personal effects, valued at £100, said to have been lost aboard two merchant vessels, the SS. "Nigeria" and the SS. "Fluent", destroyed by enemy action, the "Nigeria" on March 19th, 1917, and the "Fluent" on July 18th, 1917, aboard which vessels claimant was employed as a seaman.

There is nothing in the record to substantiate the claim, and it must, accordingly, be disallowed.

Ernest Lemieux Dongall

Ottawa, June 10th, 1931. Commissioner.

Case 1199

E. COURTNEY

This claim, as its docket number will indicate, was presented before the previous Commissioner. Originally it had been filed with the British authorities but was transmitted to Canada because claimant was there resident. The claim was not dealt with for the reason that claimant could not be located. Since that time further efforts to locate the claimant have proved unsuccessful.

Claim is made for the loss of personal effects to a value of £20 as the result of the sinking of the SS. "Clubmore"

by enemy action. There is some confusion as to the name of the vessel involved, and, as above stated, claimant has not come forward to prove his claim. It must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 11th, 1931. Commissioner.

Case 1201

CHARLES LEO

This claim, as its docket number will indicate, was presented before the previous Commissioner. Originally it had been filed with the British authorities, but was transmitted to Canada because claimant was there resident. The claim was not dealt with for the reason that claimant could not be located. Since that time further efforts to locate the claimant have been unsuccessful.

Claim is made for the loss of personal effects to a value of £20.7.0, said to have been lost when the SS. "Anglessa" was destroyed by enemy action on April 24th, 1917. Claimant was ship's carpenter aboard the vessel, and also claims for personal injuries sustained at the time of the sinking. There is nothing in the record to substantiate the claim, and it must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 11th, 1931. Commissioner.

Case 1204

STANLEY ARCHIBALD ABBOTT

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that claimant could not be located. Originally the claim had been filed with the British authorities,

but was referred to Canada as claimant was there resident. Since the date of the report of the previous Commissioner the claimant has been reached. He appeared before the Commission at its Toronto sittings, on May 21st, 1931.

The claim arises out of the destruction of the SS. "Tweed" by enemy action on March 13th, 1918. The fact of the loss of the vessel is established by Admiralty reports, and the presence aboard of claimant, as seaman, by his discharge certificate filed of record and his testimony. As originally filed, the claim was for loss of personal effects only, stated at the modest sum of £21.4.0. At the hearing he amended his claim to include the usual solatium.

He has established his case, and I consider him entitled to the usual award for loss of personal effects and solatium, as more fully explained in Opinion No.3 (to Interim Report). I would, accordingly, recommend payment to claimant of the sum of $500.00, with interest thereon, at the rate of 5% per annum, from January 10th, 1920, to date of payment. (Opinion No.4).

Ernest McDougall

Ottawa, June 10th, 1931. Commissioner.

Case 1233

THE HAMILTON DISTILLERY CO. LTD.

This claim, as its docket number will indicate, was presented before the previous Commissioner, and disallowed in the absence of proof adduced in support thereof. Since that time claimants have been given an opportunity to present such evidence as they desired to substantiate the claim, but have failed to do so.

Claim is made for the value of a consignment of 1495 barrels of Canadian whiskey, amounting to $79,000.00, lost aboard the SS. "Cymric" when she was destroyed by enemy action on May 8th 1916. There being nothing to substantiate the claim, it must be disallowed.

Ernest McDougall

Ottawa, June 10th, 1931. Commissioner.

32010
Sec. 7(a)

Case 1292

D. & J. SADLIER & CO. REG'D.

This claim, as its docket number will indicate, was filed before the previous Commissioner, but was not dealt with because claimant did not appear. On October 29th, 1930, the claimant, Mr. Henry E. Wall, carrying on business under the firm name of D. & J. Sadlier & Co. Reg'd., filed a claim on forms of the Foreign Claims Office, merely stating that he had a claim of $12,709.52 against the German Government. No particulars were furnished and it was only comperatively recently that details of the sums claimed and the grounds of claim were received.

Claimant is a publisher of school and college text books, and is said to have carried on a lucrative business in getting out religious prayer books prior to the war. In regard to two particular books of this class, viz; "Children of Mary Manual", and the "Convent Girl's Prayer Book", claimant alleges that in 1912 he caused to be printed in Belgium by Messrs. Brepols, specialists in that line, 8000 copies of the former work and 10350 copies of the latter. Of these total quantities, claimant was only able to get partial delivery owing to the occupation of Belgium by the enemy. At the termination of the war, claimant still had, in Belgium, 5152 copies of the first mentioned book and 4433 of the latter undelivered. Since that time a considerable number of the books have been brought out, but claimant urges that the market has been lost and that he is no longer able to dispose of the balance; in fact that the books have become obsolete and are no longer in vogue in the schools. This, he declares, is entirely due to his inability to make deliveries during the war, and the greatest part of his loss is said to result from this cause. As finally revised and audited, in so far as that is possible, the claim is now stated at the sum of $5336.68, representing the loss on sales, cost of manufacture, and anticipated loss of profits.

It has been extremely difficult to arrive at a definite figure covering claimant's loss. His own statements were confused, and he seemed unable to define the damage he had sustained. At a

later hearing, he brought forward an Accountant, who endeavoured to put the figures more clearly before the Commission, but even still the evidence falls far short of what a court of law would require to render a judgment. That claimant did suffer some loss is clear, but a large part of the claim must be regarded as too remote to justify an award under the relevant sections of the Treaty of Versailles. Thus, any claim for prospective profits must be discarded, as must also loss of market. Without attempting to follow claimant in the intricate maze of figures submitted as showing the cost of manufacture, overhead, cost of plates and dies, amounts charged off to previous editions, it will be sufficient to say that, in the final analysis, he had on hand, as of April 17th, 1931, the following stocks: (As per Accountant's statement):-

"The Manual of the Children of Mary"

	Copies
"Stock on hand in Montreal April 17th, as certified to us by Mr. H. E. Wall	945
"Stock on hand in Belgium	3152

"The Convent Girl's Prayer Book"

"Stock on hand in Montreal April 17th,1931, as certified to us by Mr. H.E.Wall	759
"Stock on hand in Belgium	Nil"

It is evident that this stock, while it may be depreciated in value, as claimant alleges, is still available to him, and upon his own statement, can be sold and something realized. The evidence as to what the books will bring is very indefinite, but I think it is safe to say that they will realize 50% of their value. The Manual apparently sold for 75 cents a copy and the Prayer Book for $1.00. On this basis claimant has made a loss of 50% on the sale price, which would amount to $1915.88. In addition to this sum, a loss has been incurred, which I would estimate at $1,500.00, upon books which claimant brought out after the war and was compelled to sell at a discount. It is to be regretted that claimant was unable to make out a more convincing claim, but I feel that it would be of no avail to ask him to attempt to establish his case

with greater definiteness.

For the reasons above appearing, I find that the claimant did suffer injury to his property and that this claim falls within Clause (9) of the First Annex to Section (1) Part VIII, of the Treaty of Versailles, and, I would, accordingly, recommend payment to claimant of the sum of $3415.88, with interest thereon, at the rate of 5% per annum, from January 10th, 1920, to date of payment, (Opinion No. 4).

Ernest Lapointe

Ottawa, July 6th, 1931. Commissioner.

Case 1335

THOMAS J. McMANUS

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that the claimant could not be located. Since that time efforts have been made to have the claimant complete the record, but without success.

Claim is made for the loss of household effects, declared to be worth $1500.00, alleged to have been left in house occupied by claimant and his wife at Croix, France, and which would appear to have been taken possession of by the enemy. There is nothing in the record to substantiate the claim. It must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 10th, 1931. Commissioner.

Case 1344

CHARLES EDGAR LESLIE

This claim, as its docket number will indicate, was presented before the previous Commissioner. Originally it would appear to have been filed with the French authorities under the name of Danielervier, but was transmitted to Canada inasmuch as the claimant Leslie is declared to have been born in Montreal. What the connection may be between the two claimants named is not disclosed by the record. There would also appear to have been an award made by the French authorities. Further efforts to locate the claimant Leslie have been unsuccessful.

Claim is apparently made for the loss of personal effects pillaged in premises at 10 rue Alphonse Séville, Amiens, when that City was occupied by the enemy. In this state of the record there is nothing to substantiate the claim, and, it must, accordingly, be disallowed.

Ernest Lemieux Dongall

Ottawa, June 11th, 1931.

Commissioner.

Case 1354

HUGH MILLER

This claim, as its docket number will indicate, was presented before the previous Commissioner. Originally it had been filed with the British authorities, but was transmitted to Canada because claimant was there resident. The claim was not dealt with for the reason that claimant could not be located. Since that time further efforts to locate the claimant have been unsuccessful.

Claim is made for damages sustained while interned in Germany, in an amount of $14,000.00, covering loss of income, loss of earning capacity, and cost of maintenance furnished from home. As above pointed out, claimant has not come forward to prove his claim, and the record is incomplete. The claim must, accordingly, be disallowed.

Ernest Lemieux Dongall

Ottawa, June 11th, 1931.

Commissioner.

Case 1416

AUGUSTE ALLICE

This claim, as its docket number will indicate, was presented before the previous Commissioner. Claimant, while apparently of Canadian birth, left Canada in 1892. He presented a claim to the Belgian authorities, but was refused an award on the ground that he was a Canadian. The previous Commissioner was unable to deal with the claim for the reason that the record was not complete. Since that time further efforts to have claimant substantiate the claim have proved unsuccessful.

Claim is made for injury to health resulting from internment in Germany during the war. No particulars have been furnished. In this state of the record the claim must be disallowed.

Ernest Lemieux Dongall

Ottawa, June 11th, 1931.

Commissioner.

Case 1451

ADA ELIZABETH HOUGH

This claim, as its docket number will indicate, was presented before the previous Commissioner. Originally it had been filed with the British authorities but was transmitted to Canada because claimant was there resident. While British in origin, the claim was rejected by the British authorities because claimant would appear to have married a Canadian soldier. The claim as filed is incomplete, and efforts to locate the claimant have proved unsuccessful.

Claim is made for injury to health resulting from shock sustained through the explosion of a missile during an air raid. The date of the air raid is not indicated. In this state of the record the claim cannot be entertained. It is, accordingly, disallowed.

Ernest Lemieux Dongall

Ottawa, June 11th, 1931.

Commissioner.

Case 1435

J. G. FINSLEY

This claim, as its docket number will indicate, was presented before the previous Commissioner. Originally it had been filed with the British authorities, but was transmitted to Canada because claimant was there resident. The claim was not dealt with for the reason that claimant could not be located.

Claim is made for damage to property in the sum of £8.1.9, alleged to have been caused during an air raid in England. No particulars have been furhished, nor has claimant come forward to substantiate the claim. It must, accordingly, be disallowed.

Ernest Lemieux Douglas

Ottawa, June 11th, 1931. Commissioner.

Case 1546

GEORGE A. CRUICKSHANK

This claim, as its docket number will indicate, was presented before the previous Commissioners. It was disallowed by Commissioner Friel but he declared that the late Dr. Pugsley would appear to have left the matter open for special consideration, and, it is for that reason that the claim now comes before me.

The claimant, a Canadian, as the owner of 60 shares in the schooner "Bravo", makes claim, in the sum of $65000.00, for the loss of his vessel, presumptively by enemy action. It is alleged that the loss took place in September, 1915 upon a voyage from New York to Sydney, C.B. After the "Bravo" sailed from New York she was never heard of, and her crew of 7 men disappeared with her. No evidence has been placed before this Commission additional to that adduced before Dr. Pugsley, and there is nothing to substantiate the statement that the vessel was destroyed by enemy action, nor does the record create a reasonable conviction

that such was the case. It is said by claimant that German mines were along the coast when this vessel was lost. A report has been requested from the Department of National Defence upon this feature of the case. Under date of June 10th, 1931, the Deputy Minister reports as follows:-

> "In reply to your letter of the 7th June, 1931, I beg to advise you that although rumours were rife concerning German activity off the coast of North America, there is no definite evidence in this Department of the presence of enemy submarines or mines in September 1925 off the coast of Canada."

Due to illness claimant was unable to appear in person before the Commission. He was represented by a friend, but no additional light was thrown upon the matter. In fact, claimant declares in his letters that no further information is or can be procured. At this hearing the Commission undertook to get what information could be obtained from the Department of National Defence, with the result above noted.

It is unfortunate for claimant that he cannot bring forward any convincing evidence, or establish facts which would allow the inference to be drawn that his loss was due to enemy action. With regret, I am compelled to find that he has not made out a case. The claim is, accordingly, disallowed.

Ernest Lapointe

Ottawa, July 6th, 1931. Commissioner.

Case 1582

MRS. E. C. GARDNER

This claim, as its docket number will indicate, was presented before the previous Commissioner. It was not dealt with for the reason that claimant could not be located, and counsel representing her so advised. Since that time further efforts to have the claimant complete the record have proved unsuccessful.

No particulars of claim appear in the record, and claimant has never completed the usual forms. In this state of

the record the claim must be disallowed.

Ottawa, June 11th, 1931.

Commissioner.

Case 1611

R. A. McLELLAND

FORWARDERS LTD.

This claim arises out of the destruction of two merchant vessels, the "Port Dalhousie" on March 19th, 1916, and the "W. H. Dwyer" on August 26th, 1917, both by enemy action. The fact of the loss of both vessels, in the manner indicated, is established by Admiralty reports and evidence adduced before this Commission.

The "Port Dalhousie" registered at Newcastle, England, was owned by the claimant, Rueben Alexander McLelland. Of special construction, adapted to the river and canal trade, she had a length of 250 feet and beam of 42' 6". Built in 1913, she was purchased in 1914 from Messrs. Swan Hunter & Company at a cost of £27,000, as appears from agreement of purchase filed of record. She had been originally fitted with Diesel engines but was re-engined in 1914 prior to her sale and was practically a new vessel when purchased. Her gross tonnage is shown at 1,743.53 and nett 1,128.97, with a dead-weight of 2,450 tons. It was later alleged that this latter figure is erroneous, inasmuch as certain alterations were made increasing her carrying capacity, under Certificate of the British Corporation. Her corrected deadweight tonnage is accordingly now declared at 2,645 tons. Leave was requested to amend the statement of claim to meet these changes. At the time of her loss she was under charter at the rate of 43/6 per deadweight ton and, though ordinarily engaged in carrying munitions of war, was light at the time. Insurance in the sum of £50,000 had been placed upon her, £9,500 whereof was for 91 days freight. Claimant recovered the full amount of insurance and

now makes claim for the damage sustained not covered by insurance. As originally submitted, claim was made for £30,000, based upon a hull value of £80,000, less insurance received of £50,000. But, at the hearing, after amendment, the amount claimed is stated as follows:

"Port Dalhousie"		$648,025.00
Hull Insurance	$192,375.00	
Freight Insurance	45,125.00	237,500.00
		$410,525.00

The "W. H. Dwyer" registered at Sunderland, England, was owned by Forwarders Limited, a Canadian Corporation having its head office at Kingston, Ontario, Mr. R. A. McLelland, the claimant in respect of the "Port Dalhousie", being the managing director of the Company. It is in evidence that this Company was voluntarily wound up after the destruction of the "W. H. Dwyer" and another vessel owned by it, the "Port Colborne", the shareholders receiving something in excess of 100% upon their holdings. Built in 1913 by the Sunderland Shipbuilding Company, the "W. H. Dwyer" was purchased by Forwarders Limited in September 1913 from Messrs. W. H. Dwyer and J. W. Hennessey, at a cost of £26,500, which was her building price. She was very similar in type to the "Port Dalhousie", being referred to by some of the witnesses as a sister ship, and was practically new when purchased. Of a gross tonnage of 1769.62 and nett 1141.59, her deadweight tonnage is declared in the statement of claim at 2350 tons. As in the case of the "Port Dalhousie", her load line was subsequently changed to give her an extra nine inches, as appears from Certificate of the British Corporation (Ex. No.10) and her resultant deadweight is alleged to have been increased to 2531 tons. Leave was requested to amend the statement of claim to meet these changes. The "W. H. Dwyer" is described as a steel screw steamer, length 250, beam 42.75. At the time of her loss she was under charter at the rate of 45/ per deadweight ton and was engaged in carrying munitions of war. Insurance in the sum of £70,000 had been placed upon her, £10,000 whereof for freight. Claimant recovered the full amount of insurance and now makes claim for the damage sustained not covered by insurance. As originally submitted

claim was made for £10,000 based upon a hull value of £80,000, less insurance received of £70,000. But, at the hearing, after amendment, the amount claimed is stated as follows:

W. H. Dwyer		$635,281.00
Hull Insurance	$285,000.00	
Freight Insurance	47,500.00	332,500.00
		$302,781.00

It will be seen at once that there is a wide discrepancy between the purchase price of these two vessels and the valuation placed upon them at the time of their loss in 1916 and 1917. There is also a wide divergence between the amounts originally claimed and the claim as finally asserted.

The abnormal conditions existing during the war, the great enhancement of values in ocean tonnage, and the prevailing high freights, are well known factors upon which claimants rely in asserting their claims in the amounts shown. It will perhaps be convenient to treat of the conditions affecting the value of ocean tonnage at the relevant dates in a general way and then proceed, upon the principles developed by the evidence adduced and data available to the Commission to determine the value of the two vessels for the purposes of assessment of damages.

During the war period valuations of vessels were primarily dictated by their deadweight capacity rather than upon the usual pre-war basis of gross and nett tonnage. These terms, as I understand them, have been stated as follows:

> "Registered ton measurement is based on a ton of 2240 pounds occupying 100 cubic feet.
>
> Gross registered tonnage is the interior capacity of the entire vessel measured on the above.
>
> Net registered tonnage is the space figured on the above, available for cargo and passengers, and on which port and canal charges are paid.
>
> Deadweight tonnage is the amount of cargo, stores etc., she will carry, or the amount that will submerge her from 'light load line' to her 'deep load line'."

Ordinary standards of valuation, depending upon the age of the vessel, her cost, depreciation, earning capacity, replacement, etc, were not solely determinative of value during this period. The

most important single feature was immediate availability for employment. Thus, the age of the vessel, which in normal times would be a major factor, was of comparatively little significance. Numerous instances exist of vessels many years distant in point of age being rated upon the same or substantially the same basis. Prices rose with amazing rapidity as the war progressed and the demand for tonnage increased, bringing about a very severe and temporary dislocation of the previously existing condition of shipping. The peak was probably reached in 1920 when it can be said that the value of tonnage generally had increased in the ratio of six to one as compared with 1914. The drop in values was even more startling, but we are concerned with the period prior to the peak, viz, 1916 and 1917. So great was the need of tonnage by the Allied Governments that stringent measures of requisitioning were adopted by all belligerents, with consequent reduction in earning capacity by the vessels affected. The charter rates upon requisition assured merely a reasonable profit upon the investment and such vessels relinquished their ability to earn almost fabulous sums and return to their owners profits that seem almost incredible.

It may be said that all tonnage, at this time, could be classified as (1) ships under requisition, (2) ships subject to requisition and (3) free ships. Those falling within the latter category, of course, possessed the greatest value. It has been estimated that a ship not requisitioned, but subject to requisition only, was worth 56% more than the requisitioned vessel. (Harries v. Shipping Controller, 34 T.L.R. 446 (Longbenton case). A free ship again had a distinct advantage over a ship subject to requisition and her value was very considerably greater.

Counsel for claimants has urged, with great force, that the two ships now under consideration must be regarded as falling within the category of free ships, and it was upon this basis that the amount of the claims were so greatly increased by the amendment. After very full consideration, I cannot concur with him in the view that these ships were free ships. They were on the British registry and, as is conceded by counsel, could have been requisitioned. The

view put forward that consideration was given because it was known that the ships were Canadian owned may be so, but it is entirely probable that these vessels, had they not been destroyed, would have been requisitioned during the period of pressure which became pronounced from April 1917. The best that can be said, therefore, is that both vessels (while at the moment of their loss, in fact, free ships) were subject to requisition and cannot therefore rank for valuation purposes as free ships. The valuable charters under which they had been operating were subject to cancellation if the vessels were requisitioned, and in considering valuations at any given time, such valuation must take into account that the continuance of non-requisition was a gamble and, therefore, should not properly affect the valuation at that time.

There can, in my opinion, be no actual relation between values of a vessel either requisitioned or subject to requisition and that of a vessel free of requisition. In regard to a vessel free of requisition, I feel that it would have been most difficult to place a valuation upon her that would have had a real relation to the actual facts. The difficulty is exemplified by the evidence adduced before this Commission, which went very far in increasing the valuations originally set up.

I have felt very keenly, in this case, the disadvantage of hearing one side only. It is possible, even probable, that had counsel appeared on behalf an opposing party, as in a litigated case, much additional light could have been thrown upon the question of values. I appreciate also that, to a certain measure, this must handicap claimants in their presentation of the case, but I hasten to add that no undue advantage has been taken of the situation. The claim has been very fairly and ably put forward.

In these circumstances, having regard to the large sums involved and the highly technical and special features involved in the assessment of damages, I have sought the advice of an expert whom I regard as qualified and competent to express an opinion. I am happy to say that he concurs in the conclusions I am about to reach.

The initial valuations placed upon these two vessels of £80,000, asserted in the sworn statement of claim, were arrived at as follows, to quote from letter of Mr. R. A. McLelland, filed of record:

> "In preparing our claims for Reparations you will notice that the values of the two steamships lost by enemy torpedo are based on the appraisal of Messrs. Kellock and Company of London, Appraisers to the British admiralty etc.
>
> "This appraisal was made to establish an independent value for War Risk Insurance purposes of the two steamers owned by Forwarders Ltd., namely the S.S. W. H. Dwyer and S.S. Port Colnorne.
>
> "The S.S. Port Dalhousie which had been lost and carried only £50,000 was exactly similar in type and build but of a later date.
>
> "After the S.S. Port Dalhousie was sunk by enemy torpedo I enquired from Messrs. Swan Hunter & Wigham Richardson (the builders) for a price on a new ship and they quoted about £40 per Deadweight ton.
>
> "This quotation coupled with the appraisal of Messrs. Kellock & Co. established the value of such steamers at the time. I, therefore, raised the War Risk Insurance from £50,000 to £70,000 on the S.S. W.H. Dwyer and S.S. Port Colborne.
>
> "In our claim for Reparations there is no amount added for freight or other disbursements but for the value of Hull alone which I have placed at £80,000 being about between Messrs. Kellock's appraisal of £75,000 and the cost of a new ship."

The Messrs. Kellock & Company referred to are a very prominent firm of ship's brokers, established in 1820, and by appointment are licensed valuers and appraisers to the British Admiralty. At relevant dates they were extensively employed by the Admiralty in valuing shipping. On August 24th, 1917, (apparently 3 days after the loss of the "W.H. Dwyer") they issued a formal certificate of valuation of the vessel, in the following terms:

> ""W.H. Dwyer" 1770 tons gross; 1142 tons net register. Built under the Special Survey of British Corporation at Sunderland in 1913 by Messrs. Sunderland Shipbuilding Co. Ltd. Classed B.S. British Corporation. Triple engines cylinders 17,28½ and 46 inches diameter stroke 33 inches.
>
> "After careful consideration, we estimate the present value of said steamer (provided she is now in good seagoing condition and fully equipped to be: Seventy five thousand pounds, say £75,000. Given under our hand and seal at London, this 24th day of August 1917."

It was suggested at the hearing that Messrs. Kellock had failed to regard these ships as "free ships" and that their valuation

was accordingly too low. It was hardly likely that so prominent a firm could be mistaken as to such a vital element of valuation. They were requested to advise upon what basis their valuation had been made and replied by cable (Ex. No. 12) as follows:

"Dwyer valued as British subject to requisition. Forwarders agents quoted dead weight twenty-five hundred. Did not survey."

It is, therefore, clear that Messrs. Kellock & Company contemplated in their estimate the value of a vessel subject to requisition. This bears out the view, previously stated, that the ships were regarded as subject to requisition, and makes it clear that no error had been made in considering the proper elements of valuation.

It has, I think, been established, that there was an error in the amount of dead weight tonnage allowed for the "W. H. Dwyer". Instead of 2500 tons dead weight, she was , in fact, of a capacity of 2531 tons, which will to that extent increase the valuation placed upon her by Messrs. Kellock & Company. At 2500 tons on a value of £75,000, her value per dead weight ton would be £30. Increasing, therefore, the valuation by 31 tons additional, upon the same basis, would bring the Kellock valuation to £75,930. Upon similar reasoning, but in somewhat different circumstances, the valuation upon the "Port Dalhousie" must also be modified to coincide with her increased dead weight tonnage. This feature will be later discussed.

At the hearing, claimant departed very radically from the basis of valuation above outlined and brought forward three witnesses- all experts in the valuation of vessels - to show a value very considerably in excess of the amounts originally claimed on the Kellock figures. These witnesses proceeded upon the assumption that the vessels were, in fact, free ships, and their testimony may have been unduly swayed by such assumed fact.

The first witness heard was Mr. Lambert, a well known Naval Architect. He filed a chart or graph (Exhibit No. 11) showing miscellaneous sales of ships from February 1916 to September 1917 with the prices fetched. His evidence is most interesting and the opinion expressed that the "W. H. Dwyer" had a value of £98,709 and the

"Port Dalhousie" of £88,600 is within the range of the figures quoted and relied upon by him. It is contended that, as Mr. Lambert did not take into consideration any special features of valuation, such as type of construction, his figures should be accepted as the minimum.

The next witness, Mr. I. J. Tait, Consulting Engineer and Marine Surveyor, after analyzing the sales of ships during the period under consideration, places a value of $163 per dead weight ton upon the "Port Dalhousie", which would give her a value of $431,135.00, and of $208 per dead weight ton upon the "W. H. Dwyer" which amounts to $526,448.00. Mr. Tait confined himself to a study of the sale of comparable ships in reaching his conclusions and apparently acted upon the assumption, above noted, that the two ships in question were "free ships".

The third and last expert examined was Mr. C. M. Barnett, an undoubted authority on the value of shipping at relevant dates. Not only has Mr. Barnett testified before the Commission, but a memorandum, supplementary to his evidence, has been filed. In common with the other witnesses, he proceeds upon the theory that these vessels must be classed as "free ships", although in reaching his valuations, he declares that he has not attributed to the vessels the full value they would have had as "free ships". He adopts a middle course as between ships subject to requisition and free ships. In his conclusions he finds that the figures of Mr. Lambert and Mr. Tait are too low and that his own are not high enough. His first figures are similar to those of Mr. Lambert and Mr. Tait, but his final conclusion, based upon an addition made to such valuations to include their "free ship" value, goes far beyond the other experts. His final figure for the "Port Dalhousie" is $648,025.00, and for the "W. H. Dwyer" $635,281.00, from both of which sums he deducts the full insurance received, as well upon hull as upon freight, leaving a balance, for which the claim is filed, of $410,525.00 for the "Port Dalhousie" and $302,781.00 for the "W. H. Dwyer".

For purposes of comparison the valuations furnished may be stated as follows:

"PORT DALHOUSIE"

Mr. Lambert —	$163 per d.w. ton	$431,135.00
Mr. Tait —	$160 per d.w. ton	$423,000.00
Mr. Barnett —	$245 per d.w. ton	$648,025.00

"W. H. DWYER"

Mr. Lambert —	$189 per d.w. ton	$478,359.00
Mr. Tait —	$208 per d.w. ton	$526,138.00
Mr. Barnett —	$251 per d.w. ton	$635,281.00

It is true that in Mr. Barnett's figures he has allowed for freight for a certain period, and, in this respect, a distinction should be made as to the other valuations. It is, however, upon the Barnett figures that the claim has been finally formulated and asserted.

With this material before me, I am required to find the value of these two vessels and the allowance which is to be made to compensate their owners for the loss.

Let me say, at once, that I find the valuations of the claimant's experts too high. They have proceeded, I consider, upon an improper basis in regarding these ships as "free ships". After very careful consideration, I have reached the conclusion that the disinterested valuation made by Messrs. Kellock & Company practically at the time of the loss of one of the vessels, and in the ordinary course of their duty as valuers, should be accepted as more nearly representing the basis upon which an award should be made. I have, therefore, determined the value of the "W. H. Dwyer" (upon corrected tonnage) at the sum of £75,930. As to the "Port Dalhousie", since she was lost some seventeen months previous to the "W. H. Dwyer", allowance must be made for the increase in value which occurred between the two dates. Fairplay's graph shows that, for a steamer the specified size, the cost dropped considerably between 1916 and 1917. But the general market was rising continually from the beginning of the war until 1920, and I consider that a fair and just adjustment would be to place the actual value of the "Port Dalhousie" as 15% less

than the amount determined for the "W. H. Dwyer". They are stated to have been practically sister ships. On this basis I consider the "Port Dalhousie" worth, at the time of her loss, (upon corrected tonnage), £79,350, less 15%, equivalent to £67,448. Having accepted the Kellock valuations as determinative of the values of both vessels, it would be useless to consider in detail the sale prices of other vessels of more or less similar type, and to analyze the figures submitted by the witnesses. I have studied these statements carefully and have become convinced that the Kellock valuation is as nearly accurate as the circumstances will permit.

As against the amounts above found, there must be credited the full amount of insurance received. Whether the insurance was recovered upon hull or upon freight is immaterial since the sum received represents the indemnity which owners collected in regard to the loss of their vessels. It will be noted that claimants put forward their claims with full allowance of insurance, as well in their original statement of claim as in the amended figures submitted at the hearing.

On the "Port Dalhousie", £50,000 was received by way of insurance. Deducting this amount from the above valuation of £67,448, leaves a balance of £17,448. In the case of the "W. H. Dwyer", £70,000 was received as insurance. Deducting this amount from the above valuation of £75,930, leaves a balance of £5,930. I would, accordingly, recommend payment to R. A. McLelland, as owner of the "Port Dalhousie", of the sum of £17,448, equivalent, in Canadian currency, to $84,622.80, with interest thereon, at the rate of 5% per annum, from the date of loss, March 19th, 1916, to date of payment. I would also recommend payment to Messrs. Forwarders Limited, owners of the "W. H. Dwyer", of the sum of £5,930, equivalent, in Canadian currency, to $28,760.50, with interest thereon, at the rate of 5% per annum, from the date of loss, August 26th, 1917, to date of payment, (Opinion No.4).

Ernest Lemieux Douglas

Commissioner.

Ottawa, July 10th, 1931.

Case 1612

MRS. GRATTON McCARTHY

This claim relates to the destruction of property in Belgium by the enemy during the period of occupation.

Claimant was originally a Belgian but, by virtue of her marriage to a Canadian in 1917, became a Canadian national and has been since that time a resident of Canada, at Regina, where her husband is in business.

She, with her father, brothers and sisters - Pootman by name - was the owner of considerable property in Belgium which was made use of and destroyed by the Germans. There has been filed of record a decree of the Belgium Reparations Tribunal, establishing the facts of the taking and destruction of the property and assessing the total loss sustained at a sum which I figure as 14,099.50 francs. This award is made in accordance with particular provisions as to the mode of applying the monies received under the Belgian system of reparations. As I understand this method of assessment, the actual value of the property destroyed amounted to the sum above named and, in certain instances, by way of "remploi" under Belgian law, the amount is increased by multiplying the actual value by certain fixed coefficients. This is regarded as replacement. I do not think that it would be proper to allow the maximum sum so shown in the Belgian award, after the application of the coefficient, but I do consider that the claimant is entitled to receive her interest in the real value of the property, which I take the Belgian Tribunal to have determined to be the said sum of 14,099.50 francs.

Mrs. McCarthy became entitled to a one-fourth share of this sum, but her claim was disallowed by the Belgian Tribunal because she had lost her Belgian nationality in marrying a Canadian. It would seem just that she should now receive her share, which would amount to 3524.87 francs which, converted into Canadian currency, amounts to $704.00.

I would, accordingly, recommend payment to claimant of the sum of $704.00, with interest thereon, at the rate of 5% per annum from January 10th, 1920, to date of payment.

Ernest Lapointe

Ottawa, June 25th, 1931.

Commissioner.

Case 1675

MRS. ANNIE QUIRK

This claim arises out of the alleged destruction of the S.S. "Donella", by enemy action on a voyage from North Sydney, C.B. to England, on October 17th, 1917. The claimant, a widow, of North Sydney, a British subject, and resident in Canada since 1889, makes claim for the loss of the life of her son, Noel Quirk, employed as a fireman aboard the vessel in question. She alleges dependency upon her son, but no evidence has been made to establish this fact.

The Admiralty records do not list this vessel as destroyed by enemy action, nor is the suggestion that the vessel may have been the "Dunelda" favourable to the claim. Enquiry from the Board of Trade indicates that a vessel named the "Dunelm" was reported missing with all hands since October 17th, 1915 when on a voyage from Sydney, C.B. to Manchester, but her loss was ascribed to Marine perils. There is nothing in the record to substantiate the statement that the vessel was lost as the result of enemy action.

In these circumstances, I cannot allow the claim, and it is, accordingly, disallowed.

Ernest Lemieux Dougall

Ottawa, June 11th, 1931. Commissioner.

Case 1691

JAMES L. OLIVER

This claim arises out of the destruction of the schooner "Dornfontein" by enemy action on August 2nd, 1918, off Briar Island, Nova Scotia. The loss of the vessel, in the manner indicated, is established by Admiralty reports and by the evidence furnished by a shipmate of the claimant.

Claimant, a Canadian, produces a certificate from the Shipping Master at St. John, N.B. certifying to his presence aboard

the vessel and his discharge at St. John on August 5th, 1918. Claimant was employed aboard as an able seaman, and claims for the loss of his personal effects and cash, which he details and values at $335.00.

For the reasons explained in Opinion No.3 (to Interim Report), I consider that claimant is entitled to an award for the loss of personal effects and solatium similar to awards to other seamen of the same class. I would, accordingly, recommend a payment to him of the sum of $500.00, with interest thereon, at the rate of 5% per annum, from January 10th, 1920, to date of payment, (Opinion No. 4).

Ernest Lapointe

Ottawa, June 11th, 1931.

Commissioner.

Case 1693

SICO WYLLIS

This claim arises out of the destruction of the British Steamer "Tyne" by enemy action in the English Channel on June 17th, 1917. The loss of the vessel, in the manner indicated, is established by Admiralty reports.

Claimant is a British subject, born in St. Lucia in 1896, as appears from his discharge certificate filed of record. His presence aboard, as assistant cook, is also established by such certificate. There is nothing in the record, however, to prove that claimant was or is a Canadian national. He makes claim for the loss of his personal effects at the time the vessel went down, to the value of $150.00. He also claims for personal injuries sustained when getting away from the ship. There is no evidence to substantiate this latter claim.

In this state of the record, claimant has failed to establish jurisdiction in this Commission to grant him an award, and I am, accordingly, compelled to disallow the claim.

Ernest Lapointe

Ottawa, June 11th, 1931.

Commissioner.

Case 1711

J. J. HOLMES

This claim arises out of the destruction of H.M.T. "Hunsbrook" destroyed by enemy action, in the British Channel, on December 22nd, 1917. The claim is supplementary to claim made and award received by claimant under decision No.1061 of the previous Commissioner. Claimant was then awarded a sum of $500.00 for loss of personal effects and solatium upon the usual scale. He now makes claim for personal injury to his health through illness contracted at the time the vessel was lost. He is unable to produce any medical evidence and did not appear before the Halifax sittings of the Commission to substantiate his claim.

In these circumstances I cannot entertain the supplementary claim, and it is, accordingly, disallowed.

Ernest Lapointe

Ottawa, June 11th, 1931. Commissioner.

Case 1714

HOMER LABERGE

This is a claim for the loss of several shipments of hay, forwarded by claimant to buyers in the United States, which remained undelivered, and were eventually seized and sold by the authorities for demurrage, the consignee being unable to take delivery.

The claimant is a Canadian and for many years previous to 1918 had been engaged in purchasing hay in the Province of Quebec for sale in the United States. One of his regular buyers was the firm of E. Steen & Bro., of Baltimore. In the month of May 1918, after being assured by this firm that they were the holders of a license to import and deal in hay, issued by the United States Government, claimant, in the usual course of business, shipped to Newberry Junction, Allentown, Penn., and Townley, N.J., 176 carloads of hay, consigned to E. Steen & Bro. It was the custom to so consign shipments of hay, and when vessels were available the

shipments were distributed from these points. The value of these shipments is declared by claimant to amount to $59,409.92. When the hay arrived at the points stated E. Steen & Bro., were unable to take delivery because they were no longer holders of the necessary permit or license. It is alleged that their license had been cancelled because they were of German origin. It is established of record that the members of the firm were and had been for years citizens of the United States, but possibly, due to the inflamed state of public opinion, after the United States entered the war, these people, with others, became suspects, and were subject to the loss of certain privileges. Be that as it may, the hay could not be moved and remained at the distributing centres. Although efforts were made to obtain a clearance thereof, nothing was accomplished. Demurrage charges steadily accumulated and finally the hay was seized and sold in satisfaction of such charges. The result was that claimant made a complete loss and has sustained damage in the amount claimed as the value of the hay, which, with interest as shown in his claim, amounts to a total of $112,029.62. The fact of the loss in the manner indicated, and the value of the shipment, are clearly established.

It will be obvious, at once, that the difficulty in the way of recovery by claimant, is that he must establish that his loss results from enemy action, which under the relevant sections of the Treaty of Versailles, will alone entitle him to an award. The loss was caused to him through the action of the United States authorities in refusing to allow a citizen of the United States to take delivery of the goods shipped, and the failure of claimant to obtain the return of the goods or have them disposed of otherwise. The claim is stated as follows by counsel for claimant, at page 5 of the deposition:-

> "The United States Government authorities in refusing to permit Steen to take the hay, claiming he was a German and allowing demurrage charges against the hay, as a result of that, the hay was seized and sold by the United States Government."

This cannot be regarded, in any sense, as the act of the enemy. As

pointed out in Opinions annexed to my Interim Report, it is only for losses directly attributable to the enemy that the Treaty furnishes a recourse. In the present case, it may be true that claimant would have made no loss if a state of war had not existed, and in this sense, his loss is a consequence of the war. But other citizens suffered in a similar manner and it is not, in my view, the intent of the Treaty of Versailles that the enemy should be held responsible for such indirect consequences.

Claimant may or may not have a recourse against the authorities directly responsible for his loss. I am clearly of opinion that his claim does not fall within the purview of the Reparation sections of the Treaty of Versailles. I am, accordingly, bound to disallow it.

Ernest Lucas McDougall

Ottawa, July 11th, 1931. Commissioner.

Case 1780

ESTATE MARY A. BARR

This claim arises out of the destruction of the SS. "Hesperian" on September 4th, 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.

Claimants are the heirs at law of the late Mary Ann Barr, a passenger aboard said vessel, and who lost her life when she went down. The presence of deceased aboard is established by the passenger list furnished by owners and by the evidence of a daughter who saw her mother off. Claimants are British subjects and were resident in Canada since before the war. Claim is made for the value of the personal effects of the deceased, amounting to $300.00, and for $200.00 cash which she is alleged to have had with her. The claimant's daughter testifies to the fact that her mother had this property with her, and I see no reason to doubt the accuracy of the statement,

nor the value placed upon the property lost. I would, accordingly, recommend payment to the Estate of the late Mary Ann Barr, of the sum of $500.00, with interest thereon, at the rate of 6% per annum from the date of loss, September 4th, 1915, to date of payment, (Opinion No.4).

Ernest Lapointe

Ottawa, June 11th, 1931. Commissioner.

Case 1728

WILLIAM BRODIE

This is a claim for the difference between cost and replacement value of goods lost by enemy action. It is stated at the sum of $32,497.25.

Prior to 1916, claimant, a British subject, resident in Canada, was employed as a jobber in jute purchased in Calcutta, India. In that year he established a factory and went into manufacturing on a large scale, his turnover amounting, it is stated, to about $618,000.00 annually. This jute was purchased in Calcutta and shipped sometimes to London or to Hong Kong where it was transhipped. At other times shipments were made direct to Boston or New York. The raw material so purchased was manufactured into bags by claimant abd sold to the trade. The output was about 100,000 bags per week. This involved a yardage of from 500,000 to 600,000 per month, shipped in average amounts of 100,000 yards.

The claim is for four shipments lost during the period from January 1916 to December 31st, 1917, on which latter date claimant was bought out by an incorporated company.

Claimant's records of the individual shipments were lost. Notwithstanding diligent search nothing has been found. No documentary evidence in support of the claim is available. He collected insurance, plus 15%, upon his losses, which was the cost price, plus 15%, and now seeks to recover the difference between that sum and the replacement

value. In fixing his prices upon the manufactured article claimant ascertained the Calcutta price as of that date, added the insurance and freight to arrive at the landed cost, adding the cost of sewing, printing, packing and baling, his percentage of profit, and quoted upon that basis, subject to acceptance in 24 hours. So, if goods were lost, claimant lost by having to replace the goods at a higher price, for which he was not wholly indemnified by the payment of insurance plus 15%.

With the disappearance of all documentary evidence, such as invoices, shipping notes, records of deliveries etc., claimant is also unable definitely to indicate upon what vessels the actual shipments were carried, or to establish, except presumptively, that the losses resulted from enemy activities. May I say, that counsel for claimant is to be commended for the very thorough and exhaustive enquiries made to follow up the shipments and ascertain the circumstances of the losses. It is only in respect of one shipment that his efforts have met with any success. In the case of the "Welsh Prince" (sunk October 13th, 1916, by enemy action) there is evidence, brought to light through a dispute with insurance brokers as to whether the cargo had been insured, that claimant had a shipment of jute aboard, the amount of which is deducible from the amount of insurance paid. The insurance paid was $2502.75, which would represent 500,000 yards. The cost of replacing this yardage at 10 cents would amount to $5000.00 and claim is accordingly made for the difference, viz., $2497.25. These elements of valuation would appear to be established by graph, showing the fluctuation in price at that period, filed as an exhibit.

As to the other shipments, three in number, of which claimant speaks, he is not so fortunate in being able to name the vessels upon which the shipments were lost. I do not think from the material submitted, that a finding in favour of claimant would be justified. In a general way I feel that claimant did suffer loss, and while I am not bound by the strict rules of legal evidence, I yet feel that the cases of these shipments fall too far short of proof to permit of an award.

Claimant endeavours to show from his books, or what remains of them, through a former bookkeeper, Mr. Rosenberg, that it is reasonable to assume that claimant should have made a profit of at least 10%. As a matter of fact, his net profit was only 1¾%, and the deduction is drawn that the shipping losses sustained by claimant accounted for the lessened profit. The Hon. Gordon Scott from his knowledge of claimant's business, corroborates this statement as to what claimant should have netted and what he actually made. While this may be so, I hardly think, in the circumstances, that the premises are strong enough to justify the inference sought to be drawn.

It is scarcely necessary to deal in detail with the searches made to procure further evidence. These were carried out with painstaking care, and it is unfortunate for claimant that the effort expended has not met with greater success.

On the whole, and, having regard to the particular circumstances of the case, I am inclined to allow the claim to the extent of the losses sustained aboard the "Welsh Prince". The other items of claim cannot be allowed, for lack of evidence. I would, accordingly, recommend payment to claimant of the sum of $2497.25, with interest thereon, at the rate of 5% per annum, from the date of loss, viz., October 13th, 1916, to date of payment, (Opinion No.4).

Ernest Lemieux

Ottawa, July 7th, 1931. Commissioner.

Case 1729

EDWIN H. STILL

This claim arises out of an alleged air raid, which is said to have occurred on October 19th, 1917, at a Government repository in London, England.

The claimant, a British subject, who had been resident in Canada since 1903, went overseas with the Canadian Expeditionary Forces in 1914. He had been staying at the Grand Hotel, in London,

and when he went on duty at Salisbury Plains he left his civilian luggage in the hotel. He alleges that the hotel was taken over by the War Office, and his effects, with other property, were transferred to a repository which was later bombed and destroyed by the the Germans. The value of the effects lost is stated in detail and amounts to the sum of $149.50.

Unfortunately for the claimant, there is no evidence that the effects were in fact transferred to the repository in question, or that they were destroyed in the manner stated. All that he can say is that when he enquired for his effects in 1919 he was informed that they had been sent to the repository, and he infers from this statement that they must have been destroyed. There is no direct evidence that the depository was in fact destroyed, nor does he identify the particular premises where the goods are said to have been left. In these circumstances it is impossible to admit the claim, and it must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 16th, 1931. Commissioner.

Case 1730

G. E. PARKE

This claim arises out of the destruction of the SS. "Missanabie" on September 7th, 1918, 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 awards made by the previous Commissioners, (No.993).

Claimant is a British subject, born in Canada. At the time of the loss he was a Lieutenant in the Canadian Expeditionary Forces, and was returning to Canada aboard the "Missanabie" as a passenger. While no passenger list has been produced, I am satisfied, from his statement, that he was aboard the vessel when she went down, and lost his personal effects (non military), and some cash for which he now makes claim in the sum of $250.00. The amount claimed is not excessive, and I am disposed to allow the claim at the sum stated.

I would, accordingly, recommend payment to claimant of the sum of $250.00, with interest thereon, at the rate of 5% per annum, from the date of loss, September 7th, 1918, to date of payment, (Opinion No.4).

Ernest Lapointe

Ottawa, June 18th, 1931. Commissioner.

Case 1740

MRS. PATRICK LONG

Notice of claim was lodged with the Commission in September 1930, but no particulars have been furnished. Claimant was notified to appear before the Commission at its Halifax sittings in October, 1930, but failed to do so. She was later requested to furnish details, and the usual forms were sent to her. She has taken no action to complete the record. The claim must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 16th, 1931. Commissioner.

Case 1745

ROLAND LOCKE

Notice of claim was lodged with the Commission in September, 1930. It is assumed, in the absence of particulars, that the claim is for damages resulting from being warned to leave the fishing banks because of the fear of enemy activities.

Claimant has never completed the record, and, in any event, upon the grounds assumed, would have no claim, for the reasons expressed in decisions 1658, 1663, 1661, 1689 and 1717. The claim must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 16th, 1931. Commissioner.

Case 1747

WILLIAM J. ROBERTS

Claim is made for the death of claimant's brother employed in the British Mercantile service. The circumstances of the death have not been explained, nor has any dependency been shown. Claimant was asked to appear before the Commission to substantiate the claim, but has advised that he does not desire to press the matter. The claim is, accordingly, disallowed.

Ernest McDougall,

Ottawa, June 25th, 1931. Commissioner.

Case 1759

ROBINA MOAR

Claim arises out of an explosion in a munitions plant at Chatham, N.B., on March 6th, 1916.

The claimant, a Canadian, is a sister of the late James Moar who was employed in manufacturing shells at the time of the explosion. He was severely burned and remained disabled and broken in health until the time of his death in May, 1930. Claim is made on the ground of dependency, in the sum of $8,878.00. The circumstances under which the plant in question was destroyed, were carefully considered in the case of Wm. Dickens (1696), and the conclusion was reached that the explosion had not resulted from any direct enemy action. There is, moreover, no evidence of legal dependency. The claim must, accordingly, be disallowed.

Ernest McDougall,

Ottawa, June 16th, 1931. Commissioner.

Case 1703

ESTATE HOWARD HUBLEY

This claim arises out of the loss of the Dutch SS. "Poseidon" on July 31st, 1918, as the result of a collision with the U. S. Tanker "Somerset" at Delaware Breakwater. The fact of the loss of the vessel, in the manner indicated, is established by report of the Secretary of the Canadian Legation at Washington.

Claimant, Mrs. Margaret Sullivan (nee Hubley), a Canadian, born at St. Margaret's Bay, N.S., is the sister of the late Howard Hubley, 2nd mate aboard the "Poseidon" and who lost his life when the vessel went down. There is some confusion as to whether deceased was abcard the "Poseidon" or the "Somerset", but it was probably the former. Claimant makes claim for the loss of her brother's life on the ground of dependency, in the sum of $5,000. There is no evidence of dependency, nor has it been shown that deceased lost his life as the result of enemy action. The record merely discloses a collision between a Dutch and a United States vessel. In these circumstances claimant has failed to make out a case, and the claim must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 16th, 1931. Commissioner.

Case 1858

EDWARD R. GILLAM

This claim arises out of the destruction of the schooner "Mayola" by enemy action on February 16th, 1917. 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 Commissioners.

Claimant was a seaman aboard the vessel and claims for the loss of his personal effects, the sum of $568.00. It appears from the statement of claim that claimant was born in Newfoundland,

and came to Canada to reside in June, 1930. Moreover, it developed that claimant had filed claim for this and other losses sustained by him with the Newfoundland authorities and had received awards. In these circumstances, claimant has no status before this Commission (Opinion No.1 to Interim Report), and his claim must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 17th, 1931. Commissioner.

Case 1859

ESTATE CAPT. JOHN HAMILTON

This claim arises out of the destruction of the fishing schooner "Mayola" on February 16th, 1917, 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 awards made by the previous Commissioner (Nos. 1 to 6).

Claim is made on behalf of the Estate of the late Captain John Hamilton, who was in command of the "Mayola" at the time of her loss. It appears from the record that Capt. Hamilton was a resident of Newfoundland, and that claim was filed with the Government of that Dominion on behalf of his Estate and dependents. In these circumstances this Commission is without jurisdiction to entertain the claim, and it must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 18th, 1931. Commissioner.

Case 1860

THOMAS J. KENDALL

This claim arises out of the destruction of two vessels, the schooner "Mayola" on February 16th, 1917, and the R.M.S.P. "Drina" on March 1st, 1917, by enemy action. The loss of both vessels, in the manner indicated, is established by Admiralty reports.

The claimant, T. J. Kendall, employed as cook and steward aboard the "Mayola", was born in Newfoundland in 1888, but came to live in Canada in 1898, and has since that time been resident in and about Halifax, N.S. His presence aboard the "Mayola" in the capacity stated, and aboard the "Drina", is borne out by the testimony of shipmates who were with him.

At the time the "Mayola" was sunk, claimant sustained painful injuries to his right hip and shoulder, as the result of a fall into the forecastle head, a distance of 12 feet, while he was engaged in bringing up provisions for the ship's boats. He was assisted into a boat and landed with the rest of the crew on the Portugese coast. He states that he suffered greatly from these injuries, and his statement is corroborated by two of his shipmates. Competent medical treatment was not available in Lisbon, and finally claimant, with other members of the crew of the "Mayola", was taken aboard the R.M.S.P. "Drina", sailing from the River Plate for Falmouth, England. About 9 days out from Libson the "Drina" was torpedoed by the enemy and claimant received further injuries at that time. His nose was broken and his cheek cut by flying missiles, and his left leg scalded by a steam pipe while he was escaping from his bunk. On this occasion the crew and passengers aboard the "Drina" were picked up by a trawler and eventually landed at Milford Haven, South Wales. Claimant received some medical attention at this port. He complains also of injury to his health resulting from exposure and the severity of the weather when he was landed at Milford Haven. He states that his feet were frozen walking through slush and snow from the landing place to the Red Cross Depot. From Milford Haven claimant was sent to Liverpool, and shipped from that port to Canada, where he spent considerable time in hospital, receiving medical attention for his

injuries and general health. As a result of these experiences, claimant declares that he is permanently and wholly incapacitated and has been unable to do any work since, with the exception of some light jobs during a part of the time. He married, upon the death of his mother, and his wife has had to work to support him. Her health has broken under the strain and they are practically destitute.

Dr. Judson V. Graham appeared before the Commission at Halifax, and testified that he had seen claimant more or less casually in 1919, but did not have his record. He remembered that claimant's trouble was to a great extent mental - inability to concentrate - vague pains and fears. Dr. Graham was asked to examine the claimant and report further as to his present condition. He has now done so under date of May 18th, 1931. His report reads as follows:-

> "This man states that he is 46 years old but has the general appearance of a man at least 10 or 15 years older. He is 65½ inches tall and weighs 138 pounds. His general condition is poor. He has a chest expansion of 1½ inches, and has organic heart disease.
>
> There is a linear scar 1½ inches long over the lower angle of the left shoulder blade. There is a small discharging sinus at the tip of the coccyx. There is a linear scar one inch long on the inner side of the left knee and there is a scar 3" x 2" on the front of the mid third of the left thigh. He has numerous small scars all over his chest.
>
> He has a moderate amount of foot drop of the right foot.
>
> He claims that these scars are the result of injuries received when the ship on which he was sailing was torpedoed. The foot drop is evidently due to an old neuritis which may well have been due to exposure. The heart condition may also have been due to exposure."

I am convinced that claimant did sustain injuries on the two occasions in question, but I am not satisfied that his present distressing condition is entirely due to these injuries. That he should receive an award is clear, and after very careful consideration, I am disposed to recommend a payment to him of $3,000.00, which shall include loss of personal effects, solatium and damages

for personal injuries, with interest upon this sum at the rate of 5% per annum, from January 10th, 1920, to date of payment, (Opinion No.4).

Ernest Lapointe

Ottawa, June 18th, 1931. Commissioner.

Case 1861

H. A. LARKIN (MRS. M. L. MURPHY)

This claim arises out of the destruction of the SS. "Rochester", an American vessel, on November 2nd, 1917, by enemy action. The fact of the loss, in the manner indicated, is established by reports of the United States Mixed Claims Commission.

The claim is filed on behalf of Harry A. Larkin, by his sister, Mrs. M. L. Murphy of Pubnico, N.S. Larkin himself cannot be located, and the only information available is contained in report of the Mixed Claims Commission that it appears that he was a member of the crew and was paid $100 by the United States Veterans Bureau for the loss of his personal effects. Recent correspondence has failed to find the claimant. Through his sister claim is made for $5000.00 for alleged injury to the health of claimant. Obviously, it is impossible to entertain the claim in this state of the record. It must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 25th, 1931. Commissioner.

Case 1864

MRS. J. W. BLACK

This claim arises out of the destruction of an unnamed vessel, aboard which claimant alleges that her luggage, consisting of a trunk or box, was destroyed by enemy action. Claimant had

married a Canadian soldier, and when he was killed at the front she came out to Canada aboard the "Grampian". She declares that she shipped her luggage at Euston Station, London, for Canada, but has never been able to recover it. She surmises that it must have been lost aboard a transport sunk by the enemy. The claim is stated at the sum of $200.00.

There is nothing in the record to substantiate her statements or to show enemy action. The luggage may well have been lost in another manner. Claimant appeared before the Commission, but could add nothing to throw any light upon the matter. In these circumstances, the claim must be disallowed.

Ernest Lemieux Dongall

Ottawa, June 25th, 1931. Commissioner.

Case 1865.

JOS. W. BELONG

This claim is said to arise out of the destruction of the United States fishing schooner "J. J. Flaherty" by enemy action on August 25th, 1918. The loss of the vessel, in the manner indicated, is established from reports of the United States Mixed Claims Commission, and her loss has been the subject of previous awards.

The claimant, a British subject, Canadian born, alleges that he was aboard at the time of the loss of the vessel, and claims for the loss of personal effects and solatium, on the same basis as other fishermen aboard her. Claimant has not established, however, that he was aboard. His name does not appear in the crew list furnished by the Mixed Claims Commission, nor did claimant appear before the Commission to substantiate his claim, although he was given the opportunity to do so. The claim must, accordingly, be disallowed.

Ernest Lemieux Dongall

Ottawa, June 25th, 1931. Commissioner.

Case 1937

MRS. ELIZABETH BARNES

This is a claim for personal injury resulting from an enemy air raid at Croydon, England, alleged to have occurred in the Spring of 1918.

The claimant, a British subject, resident in Canada since 1909, was at Carshalton in 1918 and alleges that as a result of an air raid over Croydon, some distance away, she "became so panic stricken I ran through the house, fell striking my head and face on left side causing the injury to my eye". She claims for the total loss of vision in the left eye. The loss of vision was not noticed for some time. A medical certificate is produced, indicating, from the history of the case furnished by claimant, that the injury referred to caused a cataract. In a later certificate, also filed of record, it is declared that the loss of the eye was not due to cataract, but due to injury.

Claimant was heard, but was unable to establish any greater degree of connexity between the alleged air raid and her injury than is shown in her statement quoted above. Efforts have been made to obtain details of the air raid, but the information furnished by the British authorities does not indicate that there was anything special in the way of air raids over Croydon in 1918. Any serious raids occurred at a much earlier date. In these circumstances, claimant has failed to establish that her injuries were the result of direct enemy action, and I must, therefore, disallow the claim.

Ernest Lapointe

Ottawa, June 18th, 1931. Commissioner.

Case 1942

J. C. BUCKLE

This claim arises out of the destruction of the SS. "Avristan" on December 6th, 1916, by enemy action. The loss of the

vessel, in the manner indicated, is established by certificate from the Registrar General of Shipping, which also proves the presence aboard of claimant as an able seaman.

The claimant is a British subject, Canadian born, who shipped aboard the vessel at North Sydney, N.S. He claims for the loss of his personal effects, loss of time seeking re-employment, and the cost of medical expenses incurred as a result of illness due to exposure at the time the vessel went down. The total claim is stated at the sum of $1300.00.

For the reasons expressed in Opinions Nos. 2 and 3 (to Interim Report), the claim for loss of time cannot be allowed, but claimant is entitled to the usual award for loss of personal effects and solatium, viz; $500.00. The claim for medical expenses cannot be allowed as no evidence has been made proving the illness referred to.

I would, accordingly, recommend payment to claimant of the sum of $500.00, with interest thereon, at the rate of 5% per annum, from January 10th, 1920, to date of payment, (Opinion No.4).

Ernest Lemieux Dongas

Ottawa, June 25th, 1931. Commissioner.

Case 1943

A. C. DRAPER

This is a claim for injury said to have resulted from an enemy air raid at Folkestone, England, on September 6th, 1917. Claimant alleges that his daughter's health had been injuriously affected by pre-natal fright and shock caused to his wife by the air raid in question. It is said that the daughter, who was born after the air raid, has a tendency to roll her eyes upwards and is blind, and this condition is ascribed to the shock sustained by the mother. No medican evidence has been adduced. Claimant did not appear before the Commission, and letters addressed to him at his last known address have been returned. In these circumstances, the claim must be disallowed.

Ernest Lemieux Dongas

Ottawa, June 25th, 1931. Commissioner.

Case 1946

WILLIAM D. DEANS

This claim arises out of the destruction of the S.S. "Missinabie" on September 7th, 1918, 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 awards made by the previous Commissioners, (No.993).

The claimant, a British subject, came to Canada to reside in 1907. He enlisted in the Canadian Expeditionary Forces, was wounded in France, and incapacitated from further service. He was being returned to Canada for discharge, and was a passenger aboard the "Missinabie". His statement to this effect is corroborated by the passenger list of the vessel, furnished by owners.

Claim is made for the loss of non-military effects, consisting of clothing, cash, some oil paintings and china he was bringing home, to a total value of $564.50. In explanation of these items, claimant states that he is and has long been a collector of oil paintings, and had picked up a considerable number of these articles and a Royal Doulton China set, in anticipation of his return to Canada. I was impressed with the testimony of the claimant, and see no reason to doubt his statement or the value placed upon the effects lost.

I would, accordingly, recommend payment to claimant of the amount claimed, $564.50, with interest thereon, at the rate of 5% per annum, from the date of loss, September 7th, 1918, to date of payment, (Opinion No.4).

Ernest Lapointe

Ottawa, June 25th, 1931. Commissioner.

Case 1973

JESSIE and PEARL KAYE

This claim arises out of the destruction of the schooner

"Minas Queen" on August 26th, 1917, by enemy action. The fact of the loss, in the manner indicated, has been definitely determined and a finding rendered by the previous Commissioner,(Case 679).

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The late George Kaye, a Canadian, was mate aboard the vessel and lost his life when she was destroyed. It appears from case No.679, above referred to, that three children of the deceased established dependency and were awarded $2000.00 each. The claims were presented by an uncle of the children, Chipman Taylor.

It has since developed that the deceased had a family by a previous marriage and that these children were not represented at the previous hearing. Marriage certificate of the late George Kaye, proving his marriage to Ruby Rushton, on April 19th, 1906, has been produced. There is also on record birth certificates of two children, viz; Jessie Viola Kaye, born on February 26th, 1907, and Pearl Rosell Kaye, born on December 2nd, 1910, both issue of the said marriage. It is in evidence that the mother died on February 24th,1913, and the children were, for a time, cared for by their maternal aunt, Mrs. James MacAloney of Parrsboro, N.S. She could not continue to maintain the children and homes were found for them. They are now, as appears from birth certificates, 24 and 20 years of age, respectively. I have some doubt as to the soundness of allowing arrears of maintenance, but I have no doubt that these two daughters were and probably still are dependent upon their deceased father.

In view of the previous decision awarding $2000.00 to the other children of deceased, I do not think that any fine distinctions should now be drawn as to the payment of maintenance. Had their cases been presented at the same time as the cases of the other children, they would certainly have been entitled to the same treatment. Without, therefore, discussing the basis upon which the previous awards were made, but feeling that the justice and equity of the matter calls for similar awards to the present claimants, I would recommend payment to Jessie Viola Kaye of the sum of $2000.00, and to Pearl Rosell Kaye of the sum of $2000.00, with interest upon both awards, at the rate of 5% per annum, from January 10th,1920, to date of payment,(as in previous awards).

Ottawa, July 9th, 1931.

Ernest Lemieux
Commissioner.

Case 1978

RUEBEN BABINE

This claim arises out of the destruction of the United States fishing schooner "Sylvania" sunk by the enemy raider "Triumph" on August 21st, 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 her loss has been the subject of awards heretofore made, (Cases 1643, 1779, 1775 and others.

Claim is made by the heirs at law of Rueben Babine, a Canadian member of the crew. His presence aboard is established by the evidence of shipmates and copy of the crew list furnished by the Mixed Claims Commission. The difficulty is that Rueben Babine has not been heard of for 5 years. There is nothing in the record establishing his death, but, in the circumstances, I am of opinion that it is a reasonable inference that Babine is now dead. He would have been entitled to receive an award similar to that received by other Canadian members of the crew, and I consider that I am justified in now recommending an award to his Estate, subject to such Administration as may be necessary.

I would, accordingly, recommend payment to the Estate of the late Rueben Babine of the sum of $600.00, with interest thereon, at the rate of 5% per annum, from January 10th, 1920, to date of payment, (Opinions Nos. 3 and 47.

Ernest Lapointe Douglas

Ottawa, June 25th, 1931. Commissioner.

Case 2150

JOHN NAUDI

This claim arises out of the destruction of the British Transport "King George" by the enemy raider "Moewe" on December 8th, 1916. The fact of the loss of the vessel, in the manner indicated, is established by Admiralty Reports, and the presence aboard of claimant, in the capacity of third engineer, is certified to by the

Registrar General of Shipping under date of May 14th,1931.

Claimant is a British subject, born in Malta. He claims for the loss of personal effects and personal injuries. The claimant did not appear before the Commission, but it develops from the correspondence, that he came to Canada to reside several years after the war. As far as the record discloses this would be after January 10th, 1920. For the reasons expressed in Opinion No.1,(to Interim Report), this Commission is without jurisdiction to entertain the claim. It is only in cases in which residence is established on or prior to that date that jurisdiction is assumed. The claim must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 25th, 1931. Commissioner.

Case 2281

D. F. HEATMAN

This claim arises out of the destruction of the SS. "Arabic" on August 19th, 1915, 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, resident in Canada since 1910. He enlisted in the Canadian Expeditionary Forces. While on service he sent to his wife in Canada, a diamond ring valued at $26.~~00~~, purchased in Paris. It is alleged that the ring was sent by registered packet. Claimant has been unable to produce the registration receipt, and the Post Office authorities in England, to whom he has applied, can furnish him with no information respecting the packet in question.

In these circumstances the claim fails for want of evidence. It must, accordingly, be disallowed.

Ernest Lapointe

Ottawa, June 25th, 1931. Commissioner.

Case 2272

JOHN MOISE

This claim arises out of the destruction of the United States fishing schooner "Sylvania" sunk by the enemy raider "Triumph" on August 21st, 1918, at or near the 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 her loss has been the subject of awards heretofore made,(cases 1643, 1779, 1775 and others).

The claimant is Canadian born and has established that he is still a Canadian, although now resident in the United States. The evidence discloses that claimant 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 claimant admits having received his share. Claimant also asserts a claim for loss of time caused by the break-up of the trip. For reasons expressed in Opinion No.3 (to Interim Report), this claim cannot be allowed.

Applying the principles stated in the various opinions annexed to my Interim Report and, in particular, having regard to Opinion No.3, I consider that claimant is entitled to an award upon the same basis as other fishermen claimants. I would, accordingly, recommend payment to him of the sum of $600.00, for loss of personal effects and solatium, with interest thereon, at the rate of 5% per annum, from January 10th, 1920, to date of payment, (Opinion No.4).

Ernest Lapointe

Ottawa, June 25th, 1931. Commissioner.

Case 1599

R. F. JAMES

This claim, as its docket number will indicate, was

presented before the previous Commissioner, in the form of a notice from the claimant. No sworn statement has been submitted, nor has the claimant come forward and explained the nature of his demand. Efforts have been made to locate the claimant, but without success.

In these circumstances, the claim must be disallowed.

Ottawa, July 13th, 1931.

Commissioner.