

CHARLES H. ROSENTHAL, ADMINISTRATOR *DE BONIS NON*
OF THE ESTATE OF RETTA C. SHIELDS, DECEASED
(UNITED STATES) *v.* GERMANY

EDWIN H. SHIELDS AND ALBERT MILLS, ADMINISTRATORS
DE BONIS NON OF THE ESTATE OF VICTOR E. SHIELDS,
DECEASED (UNITED STATES) *v.* GERMANY

(February 21, 1924, pp. 412-415.)

These two related cases, which have been considered and will be decided together, are before the Umpire for decision on a certificate of the two National

Commissioners^a certifying their disagreement. A brief statement of the facts as disclosed by the records follows:

Victor E. Shields, an American national, and Retta Cohen, also an American national, were married October 1, 1896. There was no issue of this marriage. They were both passengers on and went down with the *Lusitania*. At that time Shields was 45 and his wife 43 years of age. Shields had for a period of approximately 25 years been engaged in the wholesale liquor business at Cincinnati, Ohio. His average earnings were approximately \$10,000 per annum. He left an estate of a value of more than \$100,000 and life insurance of \$40,000. Mrs. Shields left an estate of \$20,000 and life insurance of \$10,000. On the 8th day of May, 1907, Shields executed a will bequeathing to his wife his entire estate and naming her as executrix of his will without bond. On the same day Mrs. Shields executed a similar will bequeathing her entire estate to her husband and naming him executor of her will without bond. Both of these wills were in effect at the time of their deaths. Shields left surviving him the following as his only heirs and next of kin, all being at the time of his death and ever since American nationals: Virginia Altman, a widowed sister; William H. Shields, a brother, since deceased, leaving no issue but being survived by his wife, Stella C. Shields; Edwin H. Shields, a brother; Emma Mihalovitch, a widowed sister, since deceased, who left surviving her Clarence Mills, Albert Mills, and Edgar Mills, each of whom changed his name from Mihalovitch to Mills, by which name they are now known; and Rose Baron, a married sister.

Mrs. Shields left surviving her the following as her only heirs and next of kin, all being at the time of her death and ever since American nationals: Sol W. Cohen, a brother; Delia C. Leiser, a sister; Mamie C. Rosenthal, a sister; Juliette E. Wartcki, a sister; Rose C. Rosenthal, a sister; and Belle C. Klein, since deceased, who left the following children, Sidney Klein, Ben F. Klein, Agatha Klein, Stanley Klein, and Will C. Klein.

These claims are put forward by the administrators of the estates of Mr. and Mrs. Shields respectively in behalf of the respective heirs and next of kin of decedents. None of their relatives were dependent upon either Mr. or Mrs. Shields for support and neither of them during their lives made any contributions to their relatives. Charles H. Rosenthal, administrator of the estate of Mrs. Shields, testified on October 24, 1923, that "None of the next of kin of deceased", Mrs. Shields, "were dependent upon her for support at the time of her decease. Deceased, did however from time to time give to her sister Delia Leiser (one of her next of kin) sums, the amount of which I have been unable to learn, towards the comfort of said Delia Leiser. Said Delia Leiser is a native-born citizen of the United States, is aged 70 years and now lives at the southeast corner of Ridgeway and Harvey Avenues, Cincinnati, Ohio". The Commission has not been given the benefit of the testimony of Delia Leiser. With the exception of the testimony above quoted, there is not a syllable in the record in either case indicating that either of the decedents made contributions to members of their respective families or that there was any occasion for their so doing.

It is urged that as Mr. Shields was two years older than his wife, she would, but for the wrongful act of Germany in sinking the *Lusitania*, have probably survived him and would then under his will have inherited his entire estate of a value of more than \$100,000, and that her next of kin would have ultimately benefited thereby.

On the other hand, Mr. Shields' next of kin urge that his "wife having

^a Dated February 14, 1924.

perished with him on the *Lusitania*, there is no room for doubt that *if he had survived*," he, being then without wife or children, would have been generous in his contributions to them. It is not suggested that either would have made contributions to the members of the respective families had both continued to live.

The speculative nature of these contentions is obvious. They furnish no sound basis on which to rest an award.

As heretofore pointed out, the awards which this Commission is empowered to make in death cases have for their basis not the value of a life but the losses sustained by the claimants resulting from a death, in so far only as such losses are susceptible of measurement by pecuniary standards. The records in these cases indicate that Mr. and Mrs. Shields maintained their own domestic establishment, separate and apart from both his and her relatives, all of whom were independent of them.

No claim is made in either case for property lost.

Applying the rules announced in the *Lusitania* Opinion to the facts as disclosed by the records, the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government of Germany is not obligated to pay to the Government of the United States any amount on behalf of the claimants herein.

Done at Washington February 21, 1924.

Edwin B. PARKER
Umpire
