

WEST INDIA STEAMSHIP COMPANY  
(UNITED STATES) *v.* GERMANY  
(*May 14, 1926, pp. 687-689.*)

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This case is before the Umpire for decision on a certificate of disagreement of the National Commissioners.

On June 5, 1918, the Steamship *Vinland*, of Norwegian registry and ownership and operated by a Norwegian master and crew under the directions of the charterer, the West India Steamship Company, an American corporation, claimant herein, was stopped and sunk by a German submarine. The charter-party under which the *Vinland* was being operated was executed at New York January 29, 1918, on cable authority from the owner dated Bergen, Norway, January 28, 1918. She was delivered on March 16, 1918, under this charter-party, which by its terms became effective for a period of three calendar months from that date, and therefore by its terms would have expired on June 16 had the ship not been destroyed on June 5.

This claim is put forward for the net amount which the charterer would have earned from the carriage of freight under the charter had the ship not been destroyed, less \$11,000.00 war-risk insurance collected by the charterer carried by it to protect against the loss of freight moneys.

For the reasons set forth in Administrative Decision No. VII, handed down May 25, 1925 (Decisions and Opinions, pages 308-345), and in Docket No. 6070, Arthur Sewall and Company *et al.*, handed down April 21, 1926,<sup>a</sup> the claim as so presented must be rejected.

There is no evidence in the record that the hire stipulated to be paid by the claimant for the use of the ship was less than the current market hire at which similar ships could have been chartered at the time the *Vinland* was destroyed, or that the charter operated as a burden or an encumbrance on the ship so as to affect the price which a purchaser desiring and able to buy would have paid for her subject to the charter at the time she was destroyed. It follows that under the record as presented the claimant herein has failed to discharge the burden resting upon it to prove that at the time the *Vinland* was destroyed the charter was an asset in its hands which operated as an encumbrance on the ship, and also the extent of such encumbrance and the value of such asset, so as to entitle it to recover under the rules laid down by this Commission in Administrative Decision No. VII.

There was destroyed with the ship coal belonging to the claimant of the value of \$336.00.

Applying the rules announced in Administrative Decision No. VII and other decisions of this Commission to the facts in this case as disclosed by the

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<sup>a</sup> *Note by the Secretariat*, this volume, pp. 203 and 311 *supra*, respectively.

record, the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government of Germany is obligated to pay to the Government of the United States on behalf of the West India Steamship Company the sum of three hundred thirty-six dollars (\$336.00) with interest thereon at the rate of five per cent per annum from November 11, 1918.

Done at Washington May 14, 1926.

Edwin B. PARKER  
*Umpire*

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