

STANDARD OIL COMPANY (NEW JERSEY)
(UNITED STATES) *v.* GERMANY
(*November 23, 1927, pp. 877-878.*)

This claim is put forward on behalf of an American corporation to recover damages sustained by it as a majority stockholder in a corporation organized under the laws of the Kingdom of Holland growing out of the destruction in the latter half of 1914 by the Belgian military forces of petroleum products and installations belonging to the Dutch corporation and located in Belgian territory.

From the record it appears that the petroleum products and installations were destroyed by the Belgian military forces to prevent their seizure and use by the advancing German troops as military materials in furtherance of military operations.

The destruction of the property operated indirectly upon, and resulted in damage to, the claimant as a stockholder in the Dutch corporation. Therefore the claim falls within the jurisdiction of this Commission (Decisions and Opinions, page 12).^b

But inasmuch as the property was destroyed during the period of neutrality of the United States the test of Germany's liability is: Was the property destroyed by an act "committed by the German Government or by any German authorities" or by an act "of the Imperial German Government, or its agents", within the meaning of the Treaty of Berlin as interpreted by this Commission?

^a *Note by the Secretariat, this volume, p. 3.*

^b *Note by the Secretariat, Vol. VII, p. 29.*

Applying this test the Commission holds that Germany is not obligated to compensate the claimant for its interest in the property destroyed.

The act of the Belgian military authorities in destroying materials of neutral ownership susceptible of use for military purposes, in order to prevent their being used by Germany in military operations, was an act in the prosecution of the war. But it was not Germany's act any more than any other act of Germany's enemies in the prosecution of the war was, within the meaning of the Treaty, the act of Germany. The Treaty clearly differentiates between damage caused by acts of Germany or her agents during the period of neutrality of the United States and damage in consequence of hostilities or of any operation of war caused by the act of any belligerent after the United States entered the war (Decisions and Opinions, pages 2, 3, 11, 66, 316, 324).^a

Wherefore 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 the Government of the United States any amount on behalf of the claimant in connection with the claim here put forward.

Done at Washington November 23, 1927.

Edwin B. PARKER

Umpire

Chandler P. ANDERSON

American Commissioner

W. KIESELBACH

German Commissioner
