

# **REPORTS OF INTERNATIONAL ARBITRAL AWARDS**

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## **RECUEIL DES SENTENCES ARBITRALES**

**Owner of the Frederick Gerring, Jr. (United States) v. Great Britain**

1 May 1914

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The question whether or not a private soldier belonging to the United States Army and being on duty acted in violation of or in conformity with his military duty is a question of municipal law of the United States, and it has been established by the competent military court of the United States that he acted in entire conformity with the military orders and regulations, namely, section 365 of the Manual of Guard Duty, United States Army, approved June 14, 1902.

The only question for this Tribunal to decide is whether or not, under these circumstances, the United States Government should be held liable to pay compensation for this act of its agent.

It is established by the evidence that the aforesaid orders under which this soldier, who fired at the escaping prisoner, acted, were issued pursuant to the national law of the United States for the enforcement of military discipline, and were within the competency and jurisdiction of that Government.

It has not been shown that there was a denial of justice, or that there were any special circumstances or grounds of exception to the generally recognized rule of international law that a foreigner within the United States is subject to its public law, and has no greater rights than nationals of that country.

Furthermore, no evidence is offered and no contention is made as to any personal pecuniary loss or damage resulting to the relatives or legal representatives of the unfortunate victim of the accident, and it is to be noted that this is a pecuniary claim based on alleged personal wrongs of nationals of Great Britain, as appears from its inclusion in clause III of the Schedule of Claims in the Pecuniary Claims Convention, under which it is presented.

Under those conditions the Tribunal is of the opinion that in the circumstances of this case no pecuniary liability attaches to the Government of the United States.

It should be said, however, that it may not have been altogether prudent for the United States authorities to permit prisoners under the charge of a single guard to be put at work just at the entrance of a fort on a public highway in a city, and order or authorize that guard, after allowing one of these prisoners to escape under these circumstances, to fire at him, while running along that highway.

This Tribunal, therefore, ventures to express the desire that the United States Government will consider favorably the payment of some compensation as an act of grace to the representatives of Miss Cadenhead, on account of the unfortunate loss of their relative, under such distressing circumstances.

*On these motives*

The Tribunal decides that with the above recommendation, the claim presented by His Britannic Majesty's Government in this case be disallowed.

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OWNER OF THE *FREDERICK GERRING*, Jr. (UNITED STATES)  
v. GREAT BRITAIN

(May 1, 1914. Page 577.)

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SEIZURE OF FISHING VESSEL OFF NOVA SCOTIA.—SETTLEMENT OF CLAIM. Claim made by the United States on account of seizure on May 25, 1896, and subsequent condemnation and confiscation of American fishing vessel *Friede-*

rick Gerring, Jr., together with fishing equipment. Amicable settlement between Governments.

*Cross-Reference*: Am. J. Int. Law, vol. 8 (1914), p. 655.

*Bibliography*: Nielsen, pp. 575-576.

The Tribunal considering that an amicable settlement of this case has been arrived at by the Governments concerned, according to which the Canadian Government is disposed to place at the disposal of the United States Government a sum of nine thousand dollars (\$9,000), to be employed in blotting out the recollection by the American citizen affected of an incident which, on its side, the Government of the United States will regard henceforth as finally and from every point of view closed and settled,

Decides that the said settlement shall be put on the record of this Tribunal, and shall be complied with by the Governments in conformity therewith.

## HOME FRONTIER AND FOREIGN MISSIONARY SOCIETY OF THE UNITED BRETHREN IN CHRIST (UNITED STATES)

v. GREAT BRITAIN

(December 18, 1920. Pages 423-426.)

COLONIAL TAX POLICY.—EXERCISE OF SOVEREIGNTY. Imposition of hut tax a fiscal measure in accordance with general usage in colonial administration and usual practice in African countries, to which British Government perfectly entitled in legitimate exercise of sovereignty.

MOB VIOLENCE.—GOOD FAITH, NEGLIGENCE, STANDARDS OF PROTECTION OF ALIENS.—AWARENESS OF RISK. Claim in respect of losses and damages during native rebellion in 1898 in British Protectorate of Sierra Leone. No Government responsible for act of rebellious bodies of men committed in violation of its authority, where it is itself guilty of no breach of good faith, or of no negligence in suppressing insurrection. Good faith of British Government cannot be questioned, and from outbreak of insurrection British authorities took every measure available for repression. Impossible to judge system of police and protection of life and property in savage regions of Africa by standard of highly civilized countries or cities. Missionary Society must have been aware of perils to which it exposed itself. Great Britain held not responsible.

EXTRAJUDICIAL ACTION. Tribunal recommends that Great Britain repair losses as far as possible as an act of grace.

*Cross-references*: Am. J. Int. Law, vol. 15 (1921), pp. 294-297; Annual Digest, 1919-1922, pp. 173-174.

*Bibliography*: Nielsen, pp. 421-422; Annual Digest, 1919-1922, pp. 376-377.

This is a claim for \$78,068.15 together with interest thereon from May 30, 1898, presented by the United States Government on behalf of an American religious body known as the "Home Frontier and Foreign Missionary Society of the United Brethren in Christ". The claim is in respect of losses and damages sustained by that body and some of its members during a native rebellion in 1898 in the British Protectorate of Sierra Leone.

The facts are few and simple.