

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

American-British Commission established by Article XII of the Treaty of Washington
of 8 May 1871 to deal with claims arising out of acts committed against persons or
property during the American Civil War

**Case of Edward Alfred Barrett v. the United States of America,
decision of 14 December 1871**

Commission américano-britannique de requêtes, établie par l'article XII du Traité de Washington du
8 mai 1871 pour traiter des requêtes émanant d'actes commis contre des sujets ou des biens
pendant la Guerre de sécession américaine

**Affaire concernant Edward Alfred Barrett c. les États-Unis d'Amérique,
décision du 14 décembre 1871**

14 December 1871

VOLUME XXIX, pp.137-138



NATIONS UNIES - UNITED NATIONS
Copyright (c) 2012

AMERICAN AND BRITISH CLAIMS COMMISSION, ESTABLISHED BY
ARTICLE XII OF THE TREATY OF WASHINGTON OF 8 MAY 1871 TO
DEAL WITH CLAIMS ARISING OUT OF ACTS COMMITTED AGAINST
PERSONS OR PROPERTY DURING THE AMERICAN CIVIL WAR

COMMISSION AMÉRICANO-BRITANNIQUE DE REQUÊTES, ÉTABLIE
PAR L'ARTICLE XII DU TRAITÉ DE WASHINGTON DU 8 MAI 1871
POUR TRAITER DES REQUÊTES ÉMANANT D'ACTES COMMIS
CONTRE DES SUJETS OU DES BIENS PENDANT
LA GUERRE DE SÉCESSION AMÉRICAINE

**Case of Edward Alfred Barrett v. the United States of America,
decision of 14 December 1871***

**Affaire concernant Edward Alfred Barrett c. les États-Unis
d'Amérique, décision du 14 décembre 1871****

State liability—no liability of the parent State for the payment of debts contracted by a rebel authority that failed to establish a new State—belligerent right to crush the rebel movement and seize all its assets and property—persons having voluntarily contracted with rebels assume the risk of their possible failure.

Responsabilité de l'État—absence de responsabilité de l'État parent pour les dettes contractées par une autorité rebelle qui a échoué dans l'établissement d'un nouvel État—droit du belligérant d'écraser le mouvement rebelle et de saisir la totalité de ses biens et avoirs—les personnes ayant volontairement contracté avec les rebelles assument le risque de leur possible échec.

* * * * *

The commission is of opinion that the United States is not liable for the payment of debts contracted by the rebel authorities.

* Reprinted from John Bassett Moore (ed.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. III, Washington, 1898, Government Printing Office, p. 2901.

** Reproduit de John Bassett Moore (éd.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. III, Washington, 1898, Government Printing Office, p. 2901.

The rebellion was a struggle against the United States for the establishment in a portion of the country belonging to the United States of a new state in the family of nations, and it failed. Persons contracting with the so-called Confederate States voluntarily assumed the risk of such failure, and accepted its obligations, subject to the paramount rights of the parent state by force to crush the rebel organization, and seize all its assets and property, whether hypothecated by it or not to its creditors.

Such belligerent right of the United States, to seize and hold was not subordinate to the rights of creditors of the rebel organization, created by contract with the latter; and when such seizure was actually accomplished, it put an end to any claim of the property which the creditor otherwise might have had.

We are therefore of opinion that after such seizure the claimant had no interest in the property, and the claim is dismissed.

**Cases of Charles M. Smith, later John C. Ferris, administrator
v. the United States of America; and Agnes Pollock, later J. B.
Halley, administratrix, v. the United States of America, decision of
25 September 1873 and dissenting opinion***

**Affaires concernant Charles M. Smith, par la suite John C. Ferris,
administrateur c. les États-Unis d'Amérique; et Agnes Pollock, par
la suite J. B. Halley, administratrice, c. les États-Unis d'Amérique,
décision du 25 septembre 1873 et opinion dissidente****

Authority to present a claim—right of administrators of deceased British claimants to fill claims regardless of their own nationality.

Dissenting opinion

Treaty interpretation—literal interpretation—restrictive interpretation to effectuate the intention of both States parties.

Recognition of nationality under international law—question of diplomatic protection of dual nationals—question of admission of claims by dual nationals.

Qualité pour présenter une réclamation—droit des administrateurs des requérants britanniques décédés de présenter une réclamation sans égard à leur propre nationalité.

* Reprinted from John Bassett Moore (ed.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. III, Washington, 1898, Government Printing Office, p. 2239.

** Reproduit de John Bassett Moore (éd.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol. III, Washington, 1898, Government Printing Office, p. 2239.