

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

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**RECUEIL DES SENTENCES  
ARBITRALES**

**Clara W. Roney and George E. Boles (U.S.A.) v. United Mexican States**

2 March 1926

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PINE KING LAND AND LUMBER CO. (U.S.A.) *v.* UNITED  
MEXICAN STATES.

*(March 2, 1926. Page 4.)*

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PROCEDURE, MOTION TO DISMISS.—JURISDICTION OVER CLAIM BASED ON  
TITLE TO REAL PROPERTY.—LITISPENDENCE. Motion to dismiss, on  
grounds that claims based on title to real property were outside  
jurisdiction of tribunal and that a similar claim was pending before  
a Mexican court, overruled.

*(Text of decision omitted.)*

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CLARA W. RONEY AND GEORGE E. BOLES (U.S.A.) *v.* UNITED  
MEXICAN STATES.

*(March 2, 1926. Pages 5-6.)*

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CONFLICTING JURISDICTION OF SPECIAL CLAIMS COMMISSION. Motion to  
dismiss claims clearly within competence of Special Claims Commission  
established under Convention of September 10, 1932, granted. Any  
such claim held outside jurisdiction of tribunal.

These cases are before this Commission on the Mexican Agent's motion  
to dismiss.

1. The claimants are the widow and father of Frederick John Roney and  
Early Boles, respectively, who it is alleged were unlawfully killed by armed  
Mexicans on or about the 5th day of January, 1920.

2. The ground of the motion to dismiss is that it appears on the face of the  
record that these cases fall within the jurisdiction of the Special Claims  
Commission, constituted under the Special Claims Convention, and are not  
within the jurisdiction of this Commission.

3. This Commission is constituted under the terms of the General Claims  
Convention signed September 8, 1923. The preamble recites that the high  
contracting parties, "desiring to settle and amicably adjust claims by the  
citizens of each country against the other \* \* \* (without including the  
claims for losses or damage growing out of the revolutionary disturbances in  
Mexico which form the basis of another and separate convention) have  
decided to enter into a convention with this object". Article I of the Con-  
vention, defining in broad and general terms the jurisdiction of this Commission,  
carves out of its general jurisdiction claims "arising from acts incident to the  
recent revolutions". The other and separate convention, referred to in the  
preamble of the General Claims Convention, is that designated "Special  
Claims Convention" signed September 10, 1923, Article III of which specifies  
five categories of claims which fall within the jurisdiction of the Special  
Claims Commission constituted thereunder.

4. The Memorandum, the Memorial and the documents and proofs in support thereof, filed by the American Agent, read together, bring these cases clearly within the jurisdiction of the Special Claims Commission. This being true, this Commission is without jurisdiction to hear and decide them and the motion of the Mexican Agent to dismiss must be sustained.

5. These claims are two out of several hundred, which have been filed by the American Agent with both this Commission and the Special Claims Commission. As the jurisdiction of this Commission is general and as many cases may arise in which, from the facts alleged, it is not clear within which jurisdiction they fall, it will prove helpful to this Commission to have before it, in considering such claims, the opinions of the Special Claims Commission in the series of test cases, already submitted to it, in which it is believed opinions will be rendered at an early date. Such opinions on legal points are entitled to and will have great consideration and will be given great weight by this Commission in construing the exceptions contained in Articles I and VIII and in the preamble of the General Claims Convention.

6. In the cases here presented, however, the allegations contained in the memorandum and supporting exhibits numbered 4, 9, 15, 22, 23, 25, and 29 filed by the American Agent, leave no room to doubt that they fall within the jurisdiction of the Special Claims Commission, and hence that this Commission is without jurisdiction to decide them.

7. It is hereby ordered that docket Nos. 195 and 284, the United States of America on behalf of Clara W. Roney and George E. Boles, respectively, *v.* United Mexican States, be, and they are, hereby dismissed without prejudice to the right of the United States of America to espouse and prosecute them elsewhere.

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EL EMPORIO DEL CAFÉ, S.A. (UNITED MEXICAN STATES) *v.*  
UNITED STATES OF AMERICA.

(*March 2, 1926. Pages 7-9.*)

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PROCEDURE, MOTION TO DISMISS. Upon a motion to dismiss, allegations of memorial to which it is addressed must be taken as confessed.

UNLAWFUL COLLECTION OF CUSTOMS DUTIES BY OCCUPYING MILITARY AUTHORITIES. Claimant paid to occupying American military authorities at Vera Cruz export duties on shipment to Mexican destination *via* port of Vera Cruz. Under Mexican law claimant was entitled to refund of such shipment when it reached its final Mexican destination but respondent Government failed to make such refund after demand. Motion to dismiss for lack of jurisdiction *denied*.

*Cross-reference:* Annual Digest, 1925-1926, p. 234.

*Comments:* Edwin M. Borchard, "Decisions of the Claims Commissions, United States and Mexico," *Am. J. Int. Law*, Vol. 20, 1926, p. 536 at 542.

This case is before the Commission on the American Agent's motion to dismiss. For the purposes of this motion only, the truth of all the allegations in the Memorial filed by the Mexican Agent must be taken as confessed.