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National Paper and Type Company (U.S.A.) v. United Mexican States

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Decisions

LEE A. CRAW (U.S.A.) *v.* UNITED MEXICAN STATES

(*September 26, 1928. Pages 1-2*¹).

CONTRACT CLAIMS.—EFFECT OF DOMESTIC LAW GOVERNING PAYMENTS. Claim for goods sold and services rendered the Mexican Government during Huerta regime *allowed*. Mexican law of payments of April 13, 1918, not given effect.

INTEREST. Where evidence is not clear as to time obligation to pay arose, *held* interest may be allowed from date marking termination of transactions in question.

(*Text of decision omitted.*)

NATIONAL PAPER AND TYPE COMPANY (U.S.A.) *v.* UNITED MEXICAN STATES

(*September 26, 1928. Pages 3-5.*)

MEMORIAL OF CLAIM AS EVIDENCE. Fact that under rules of tribunal claimant signed and swore to memorial of his claim does not thereby constitute it evidence in support of claim. Claim *disallowed*.

CONTRACT CLAIMS.—NON-PAYMENT OF MONEY ORDERS. Claim for goods sold and delivered, part of which was sold during de la Huerta administration, *allowed*. Claim for non-payment of money orders *allowed*.

RATES OF EXCHANGE.—INTEREST. Ruling on rate of exchange in *George W. Cook* claim *supra* followed. Interest *allowed* from date of termination of transactions in question.

The Presiding Commissioner, Dr. Sindballe, for the Commission:

In this case claim against the United Mexican States is made by the United States of America on behalf of the National Paper and Type Company, an American corporation, for a sum made up of two items.

1. The first item claimed is for the nonpayment of the agreed purchase price, partly fixed in dollars, partly in pesos, of printing machinery, paper envelopes and other goods alleged to have been sold and delivered by the claimants to various departments of the Mexican government between November 12, 1912, and October 16, 1914.

¹ References to page numbers herein are to the original report referred to on the title page of this section.

The claimants admit that goods sold and delivered to the Printing Office of the National Museum, to the amount of \$1,366.57, have already been paid, and they allow a sum of \$195.84 for goods returned. The amount claimed by them is \$26,639.43, U.S. currency.

The respondent government admits the sale and delivery of goods for \$11,401.48 and 23,996.65 Pesos, Mexican currency, but contests the sufficiency of the evidence produced for the rest of the goods, and submits that due to the political disorders in Mexico the Archives of the various Departments do not contain information concerning the goods in question.

No proof of the delivery of the item of goods said to have been sold for \$26.08 accompanies the Memorial. It was argued by counsel for the United States that, since the President of the company had sworn to the Memorial which includes a list giving the number, date and amount of the invoices of these goods, there was in fact before the Commission an affidavit in support of the allegations respecting this item. Under the rules the Memorial must be accompanied by the evidence on which the claimant relies in support of the allegations contained in the Memorial. The fact that under the rules of the Commission as they existed when the Memorial was framed it was required that the Memorial be verified by the claimant would not justify the Commission in sustaining the views of counsel in such a manner that its action would in effect constitute a precedent in the light of which a pleading might be regarded at once as a pleading and as evidence. This item must therefore be disallowed.

The remainder of the goods in question is alleged to have been sold to the House of Correction for Boys and the Correctional School connected therewith, Tlalpam, D. F., Mexico. Invoices and receipts covering all those goods have been submitted. In some cases the receipts have been signed by persons who, in the lack of evidence to the contrary, must be assumed to have been representatives of the institution just mentioned. In many cases, however, the receipts are signed by Guerra Hermanos, a grocery firm in Mexico City. With regard to this point the claimants have submitted the affidavit of an accountant employed by them stating that he, from his handling of the funds and documents of the claimant company, knows that the goods sold to the said institution in many cases, according to orders given by the institution, were delivered to Guerra Hermanos who undertook to bring the goods by their team to the Correction House at Tlalpam. In view of the fact that no declaration from Guerra Hermanos has been produced by the respondent government, the Commission holds that there is sufficient proof of the delivery of the goods in question.

A part of the goods delivered were sold and delivered during the period of the de la Huerta administration, but for the reasons set forth by the Commission in the *George W. Hopkins* case, Docket No. 39,¹ this circumstance does not affect the liability of the United Mexican States.

The amount in Mexican currency should be transferred into U. S. currency according to the rules applied by the Commission in the *George W. Cook* case, Docket No. 663.²

¹ See page 41.

² See page 209.

Interest should be allowed at the rate of six per centum per annum from October 16, 1914, the date of the termination of the transactions in question.

2. The second item claimed is for the nonpayment of sixteen postal money orders for an aggregate sum of 386.65 Pesos, Mexican currency, purchased by the claimant at the post office of the Mexican government at Cordoba, Vera Cruz, on August 19, 1914, and payable at sight to the claimant at Mexico City. The said postal money orders were presented for payment at various times during the period between August 19, 1914, and November 10, 1914, but were not paid.

With regard to this item, the only question raised is with respect to the rate of exchange to which the amount claimed should be transferred into U. S. currency. The Commission applies the principles laid down in the case of *George W. Cook*, Docket No. 663.

Interest should be allowed at the rate of six per centum per annum from November 10, 1914.

Decision

The United Mexican States shall pay to the United States of America on behalf of the National Paper and Type Company \$26,613.35 (twenty-six thousand six hundred and thirteen dollars and thirty-five cents) with interest thereon at the rate of six per centum per annum from October 16, 1914, to the date when the last award is rendered by the Commission, and \$192.74 (one hundred ninety-two dollars and seventy-four cents) with interest thereon at the same rate from November 10, 1914, to the date when the last award is rendered by the Commission.

EDGAR A. HATTON (U.S.A.) *v.* UNITED MEXICAN STATES

(September 26, 1928. Pages 6-10.)

NATIONALITY, PROOF OF. Evidence of nationality of a somewhat inconclusive character *held* sufficient when respondent Government had produced nothing to throw doubt upon claimant's nationality.

EVIDENCE BEFORE INTERNATIONAL TRIBUNALS.—PRESUMPTIONS AND BURDEN OF PROOF.—EFFECT OF ADMISSION IN ANSWER OF JURISDICTIONAL FACT. An admission of nationality made in answer of respondent Government cannot take the place of adequate proof of nationality, which is a jurisdictional fact. Circumstance that respondent Government admitted nationality does not relieve claimant Government of proving such fact.

ADEQUACY OF RECEIPT AS EVIDENCE.—AUTHENTICATION OF EVIDENCE. Authentication according to Mexican law of receipt given by commander of armed forces for animals taken *held* not necessary. Signature of officer proved genuine. Fact that claimant's name not shown on receipt *held* not fatal to his claim.