

**REPORTS OF INTERNATIONAL  
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**RECUEIL DES SENTENCES  
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**I. R. Clark (United States.) v. United Mexican States**

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I. R. CLARK (U.S.A.) *v.* UNITED MEXICAN STATES

(October 18, 1928, Pages 131-132.)

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DENIAL OF JUSTICE.—ILLEGAL ARREST. Claim arose under same circumstances as those in *L. J. Kalklosch* claim *supra*, except that there may have been probable grounds for arrest. Claim *allowed*.

DAMAGES, PROOF OF.—PROXIMATE CAUSE. Where claimant was attacked by another prisoner during course of illegal imprisonment but medical testimony did not clearly establish that claimant's impairment of hearing resulted from such attack, evidence of injury *held* insufficient.

*Cross-reference* : Annual Digest, 1927-1928, p. 227.

*Commissioner Nielsen, for the Commission* :

Claim in the amount of \$25,000.00 is made in this case by the United States of America against the United Mexican States in behalf of I. R. Clark. The claim is grounded on complaints made by the claimant that he was illegally arrested and imprisoned by Mexican authorities, and that he was mistreated in connection with his arrest.

The occurrences upon which this claim is grounded are the same as those stated in the opinion rendered in the case of *L. J. Kalklosch*, Docket No. 708.<sup>1</sup>

Although it was contended in the instant case that Clark was the victim of an illegal arrest without a warrant and of gross mistreatment in jail, the case was, to some extent, differentiated by counsel for the United States from the *Kalklosch* case, in that it was said that possibly there may have been some cause for the arrest of Clark.

An important point is raised in the instant case with respect to damages suffered by the claimant. It is alleged in the Memorial and there is evidence to support the allegation that when the claimant was in jail at Altamira, a drunken Mexican was placed in the cell with the claimant, and that the former, without provocation, and under encouragement of Mexican soldiers, dealt the claimant a very severe blow on the head which produced great pain and resulted in a permanent condition of deafness in both ears. Whatever may be the facts with respect to this particular matter, careful consideration must be given in connection therewith to what may be called expert testimony accompanying the Memorial. That is an affidavit of a physician made on May 18, 1921, in which he states that on April 28 of that year he made a thorough examination of the claimant Clark and found his hearing decidedly impaired and the tympanic membranes dull and retracted but otherwise apparently normal. He further says that he can not definitely state the exact cause of this condition which "might have occurred from a number of causes", but could have resulted from a sudden and violent blow on the ear.

There is not before the Commission evidence upon which to base a definite conclusion with respect to this particular item of damage claimed by the claimant. An award of \$200.00 may be rendered in his favor.

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<sup>1</sup> See page 412.

*Decision.*

The United Mexican States shall pay to the United States of America the sum of \$200.00 (two hundred dollars) in behalf of I. R. Clark, without interest.

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ALEXANDER ST. J. CORRIE (U.S.A.) *v.* UNITED MEXICAN STATES

(*March 5, 1929. Pages 133-135.*)

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RESPONSIBILITY FOR ACTS OF MINOR OFFICIALS.—DIRECT RESPONSIBILITY.—WRONGFUL DEATH.—DENIAL OF JUSTICE.—FAILURE TO APPREHEND OR PUNISH. A Mexican Chief of Police, out of uniform, shot dead two American seamen during course of his efforts to quell a street disturbance. An investigation was promptly begun by the authorities and the police officer was arrested. Three days after his arrest he was released and resumed his duties as Chief of Police. A year later he was deported from the State of Sonora and was thereafter arrested in the United States. An American consul in Mexico suggested he be turned over to the Mexican Government for trial and possible punishment. Instead he was released. Claim *disallowed*.

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

In this case claim in the sum of \$50,000.00, United States currency, is made against the United Mexican States by the United States of America on behalf of Alexander St. J. Corrie, alleged to be the father and the heir or next of kin of William Wallace Corrie, a seaman of the United States Navy, who, on April 9, 1913, was shot by Cipriano Lucero, the Chief of Police of Guaymas, Sonora, Mexico. The claim is predicated, first, on the act of Cipriano Lucero, and secondly, on the alleged failure of the Mexican authorities properly to prosecute and punish Lucero for having shot Corrie.

It is contended by counsel for Mexico that neither the American nationality of Alexander St. J. Corrie nor his kinship to the deceased, William Wallace Corrie, has been adequately established by the proofs submitted by counsel for the United States. With regard to the question of nationality it is stated in an affidavit of the claimant himself that he is a citizen of the United States by birth, and this statement has been corroborated by affidavits of several of his relatives or acquaintances. Likewise, the kinship of the claimant to the deceased has been asserted by affidavit of the claimant himself, and corroborated by affidavits of several other persons as well as by the enlistment record of the deceased in the United States Navy, in which the claimant is mentioned as the "beneficiary or next of kin" of the deceased. The commission is of the opinion that the evidence thus submitted should be considered as sufficient.

With regard to the circumstances surrounding the shooting of William Wallace Corrie the following appears from the record:

On April 9, 1913, a liberty party from the *U. S. S. California*, including Corrie, went ashore at Guaymas. A number of the men visited saloons and