

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

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**RECUEIL DES SENTENCES  
ARBITRALES**

**Victor A. Ermerins (United States.) v. United Mexican States**

18 April 1929

VOLUME IV pp. 476-477



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*Decision*

The claim of the United States of America on behalf of Lottie Sevey is disallowed.

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VICTOR A. ERMERINS (U.S.A.) *v.* UNITED MEXICAN STATES

(*April 18, 1929. Pages 219-220.*)

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DENIAL OF JUSTICE.—FAILURE TO PROTECT.—DUTY TO PROTECT CONSULAR OFFICERS.—DIRECT RESPONSIBILITY.—RESPONSIBILITY FOR ACTS OF MINOR OFFICIALS. Claimant was American consular agent as well as customs inspector at Puerto Mexico, State of Vera Cruz, Mexico. At time of occupation of Vera Cruz by American naval forces, he was by cablegram instructed by the Department of State to proceed home with his family. A Mexican censor refused to permit delivery of cablegram but claimant was otherwise informed of its contents and he left. The next day his house was found looted of property for which claim was made. The claimant's house was situated just across the street from police headquarters and the Alcalde. Some evidence placed responsibility for the looting with the Alcalde and members of the police force but the grounds upon which such assertions were made were not stated. Claim *allowed* without interest.

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

In April, 1914, when the city of Veracruz was occupied by American naval forces, Victor A. Ermerins, an American citizen, was acting American Consular Agent as well as United States Customs Inspector at Puerto Mexico, State of Veracruz, Mexico. A hostile attitude on the part of the Mexicans towards Americans arose in the town and on April 23 the Department of State of the United States sent Ermerins a cablegram instructing him to proceed home with his family at his discretion. This cablegram was not delivered to Ermerins, because a censor who had been placed in the offices of the telegraph company of the town by the Mexican Government would not let it pass. In the afternoon of April 23, however, a friend of Ermerins, who had learned of the cablegram, urged him to leave the town, with his family, by one of the American vessels that were in the port about to depart, and Ermerins acted accordingly. The next day his house was found looted of property of the alleged value of \$1,464.05, United States currency.

In this case claim in the said sum, with interest thereon, is made against the United Mexican States by the United States of America on behalf of Victor A. Ermerins. The claim is predicated on the contention that not only did the Mexican authorities entirely fail to afford proper protection to the interests of Ermerins and to take appropriate steps to apprehend and punish the perpetrators of the robbery, but that the Alcalde and members of the police force of the town were themselves the robbers.

The contention that the Alcalde and members of the police force perpetrated the crime is based upon letters to Ermerins from the British Vice-Consul and the Agent of the Hamburg-America line at Puerto

Mexico, by which Ermerins was informed of the looting. It is mentioned in these letters that the authorities searched both the house and the office of Ermerins. The Agent of the Hamburg-America line mentions that he was present when the search of the office took place, and that the Alcalde took a map of Mexico from the office. Neither the British Vice-Consul nor the agent of the Hamburg-America line was present when the house was searched, and neither of them states the grounds upon which they base their belief that the authorities committed the robbery. The contention that the authorities did so must therefore be considered as unproven.

From the inventory of the articles stolen from Ermerins' house it appears that a regular looting took place. Especially in view of the fact that the house was situated just across the street from police headquarters and the Alcalde's office, the Commission is of the opinion that a crime of this nature could not have taken place, if the authorities of the town had properly fulfilled their duty to afford protection to the property of Ermerins, which they must have known would be exposed to danger under the circumstances prevailing at the time. An award in the sum claimed without interest should therefore be given in this case.

*Decision*

The United Mexican States shall pay to the United States of America on behalf of Victor A. Ermerins the sum of \$1,464.05 (one thousand four hundred sixty-four dollars and five cents), United States currency, without interest.

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GEORGE M. WATERHOUSE and ANNIE B. WATERHOUSE (U.S.A.)  
v. UNITED MEXICAN STATES

*(April 18, 1929. Page 221.)*

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DENIAL OF JUSTICE.—FAILURE TO PROSECUTE.—FAILURE TO PUNISH  
ADEQUATELY. Claim arising under circumstances set forth in *Norman  
T. Connolly and Myrtle H. Connolly* claim *supra* allowed.

*(Text of decision omitted)*

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HENRY W. PEABODY AND COMPANY (U.S.A.) v. UNITED MEXI-  
CAN STATES

*(April 18, 1929. Pages 222-223.)*

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TAXES UNLAWFULLY ASSESSED AND PAID UNDER PROTEST. Claim for taxes  
paid under protest, the decree under which such tax was assessed later  
being held unconstitutional by Mexican Supreme Court, *allowed*.