

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES  
ARBITRALES**

**Henry W. Peabody and Company (U.S.A.) v. United Mexican States**

18 April 1929

VOLUME IV pp. 477-478



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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*.

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

In this case claim in the sum of \$84,625.00, Mexican currency, or its equivalent in United States currency, with interest thereon, is made against the United Mexican States by the United States of America on behalf of Henry W. Peabody and Company, an American corporation.

On March 2, 1922, the claimant company, which had a branch office at Merida, State of Yucatan, Mexico, and which had in storage at Progreso 8903 bales of henequen awaiting shipment to the United States, made payment to the Treasury of the State of Yucatan which covered all taxes and imposts assessed on henequen under the laws then in force, and received permits to export 8200 bales of the said henequen. Nevertheless, when the henequen was to be embarked, the representative of the claimant company was informed by the authorities of the State that pursuant to a decree of the Legislature of the State of March 7, 1922, an additional tax would have to be paid. On March 9, the claimant company then paid under protest \$84,625.00, Mexican currency. Later, the said decree was declared unconstitutional by the Supreme Court of Mexico, but the amount paid under protest has never been returned.

In the Answer the Mexican Agent agrees that this claim be passed upon in accordance with the petition contained in the Memorial. An award in the sum claimed with interest thereon from March 9, 1922, should therefore be given.

*Decision*

The United Mexican States shall pay to the United States of America on behalf of Henry W. Peabody and Company \$42,185.56 (forty-two thousand one hundred eighty-five dollars and fifty-six cents), United States currency, with interest thereon at the rate of six per centum per annum from March 9, 1922, to the date on which the last award is rendered by the Commission.

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JOHN O'BYRNE (U.S.A.) *v.* UNITED MEXICAN STATES

(April 20, 1929. Pages 223-224.)

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MISTREATMENT DURING ARREST AND IMPRISONMENT.—EVIDENCE BEFORE INTERNATIONAL TRIBUNALS.—Claim for beating and mistreatment during arrest and imprisonment, with but slight evidence to support claimant's statement, *disallowed*.

(Text of decision omitted.)

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S. J. STALLINGS (U.S.A.) *v.* UNITED MEXICAN STATES

(April 22, 1929. Pages 224-226.)

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DENIAL OF JUSTICE.—FAILURE TO PROTECT.—FAILURE TO APPREHEND OR PUNISH. Claimant was kidnapped by armed Mexican force, robbed of