

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

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**RECUEIL DES SENTENCES  
ARBITRALES**

**S. J. Stallings (U.S.A.) v. United Mexican States**

22 April 1929

VOLUME IV pp. 478-480



NATIONS UNIES - UNITED NATIONS  
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*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

personal property to value of \$120.00, United States currency, and held for ransom for one day, when he was released on payment of \$10,000.00, Mexican currency, by his employer. Federal troops had been withdrawn from vicinity to quell a revolution. Other instances of criminal activities took place on day of claimant's abduction but not prior thereto. No action was taken by ordinary judicial or police authorities. About fifty mounted members of auxiliary military forces were about to start in pursuit when their Colonel refused them permission to do so. Claim *allowed*, on ground of failure to apprehend and punish, in sum of \$400.00, United States currency.

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

In this case claim in the sum of \$10,120.00, United States currency, is made against the United Mexican States by the United States of America on behalf of S. J. Stallings, an American citizen. The facts out of which the claim arises are as follows:

At about 5 P. M. on January 11, 1924, the claimant, who was employed by the American Smelting and Refining Company in the vicinity of Parral, Chihuahua, Mexico, was traveling in an automobile on the mainroad between the Veta Grande property and the Parral Consolidated property of the said company. He was then held up by a band of approximately twenty mounted and armed Mexicans. He was ordered out of the car, robbed of personal property of the alleged value of \$120.00, United States currency, forced to sign a note demanding the company by which he was employed to pay \$15,000, Mexican currency, for his release, and ordered to the nearby hills, where he was detained until the following morning when a messenger from the company arrived with \$10,000, Mexican currency.

The United States contends that Mexico is responsible for the hardship suffered by the claimant, first, because of failure properly to protect the residents of the district where the event took place, secondly because of failure to apprehend and punish the criminals.

The Commission is of the opinion that there is not sufficient evidence to establish a responsibility on the part of Mexico for failure to afford proper protection. It appears that Federal troops were withdrawn from the State of Chihuahua some time before the abduction took place, but, as mentioned in the opinion of the Commission in the case of *Charles S. Stephens and Bowman Stephens*, Docket No. 148,<sup>1</sup> this took place because the troops were needed farther south for the purpose of quelling the Adolfo de la Huerta revolution. Other instances of criminal activity are recorded to have taken place on the same day when the abduction occurred, but not prior to that day.

With regard to the question of failure to apprehend and punish the criminals the following appears: The local authorities of Parral were informed of what had taken place when Stallings had been released. No action was taken by the ordinary judicial or police authorities. Federal forces were, as stated above, withdrawn from Chihuahua. Auxiliary forces had been formed in Parral, and the day after the abduction the President of Mexico and the Secretary of War and Navy were informed by the Chief of Military Operations at Chihuahua that orders for the pursuit of the criminals had already been given by Col. Ortega of the auxiliary forces, and that it was expected that the criminals would be captured at any moment. It appears,

<sup>1</sup> See page 265.

however, that on January 17, 1924, when some fifty mounted men were ready to start in pursuit of the bandits, the Colonel refused them permission to do so. In view hereof, and since no other action to apprehend the criminals appears to have been taken, the Commission is of the opinion that a failure to take proper steps to apprehend the bandits such as to make Mexico responsible has been established in this case, and that therefore an award should be made in the sum of \$400, United States currency.

*Decision.*

The United Mexican States shall pay to the United States of America on behalf of S. J. Stallings, \$400 (four hundred dollars), United States currency, without interest.

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DARDEN BLOUNT (U.S.A.) *v.* UNITED MEXICAN STATES

(April 22, 1929. Pages 226-228.)

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DENIAL OF JUSTICE.—FAILURE TO APPREHEND OR PUNISH. On day following the discovery of the body of a murdered American subject the Mexican authorities began an investigation at the spot where the body lay and thereafter apprehended three suspects who were later released for lack of evidence. American Agent contended a more thorough investigation should have been had. Claim *disallowed*.

*Commissioner Fernández MacGregor, for the Commission:*

On February 13, 1918, there was found in the neighborhood of a ranch called Klein Ranch, situated in the vicinity of Ciudad Juárez, Chihuahua, Mexico, the body of John D. Blount, an American citizen, with indications of his having been murdered a few days previous thereto.

The Mexican authorities were notified, and on the day following the discovery, the corresponding investigation was initiated, the Court personnel proceeding to the spot where the body lay. Several proceedings were carried out; three men who appeared suspicious were apprehended, but they were later released for want of evidence of responsibility against them. After this, the Mexican authorities took no further steps to obtain the punishment of this crime.

The United States of America, on behalf of Adele Darden Blount, mother of the deceased, now claims from the United Mexican States, the amount of \$25,000.00, United States currency, alleging that the Mexican authorities refused or failed to apprehend the murderer or murderers of Blount, for which reason the claimant sustained a denial of justice on the part of the Government of Mexico.

The evidence produced by both Governments regarding the facts is very meagre; the American Agency presented only a few notes from the American Consul having jurisdiction at the place of the occurrence, reporting the facts and transmitting correspondence which contained promises made to him by Mexican judicial officials to investigate the matter with due care.

The Mexican Agent produced the judicial record compiled as a result of the investigation undertaken to ascertain who were responsible for the