

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

John I. Howe (U.S.A.) v. United Mexican States

9 May 1929

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Decision.

The United Mexican States shall pay to the United States of America on behalf of Richard A. Newman the sum of \$7,000.00 (seven thousand dollars), United States currency, without interest.

JOHN I. HOWE (U.S.A.) *v.* UNITED MEXICAN STATES

(May 9, 1929. Pages 286-288.)

DENIAL OF JUSTICE.—FAILURE TO APPREHEND OR PUNISH. During course of insurrection claimant's cattle were driven off and claimant's store was robbed. Claimant later recognized leader of band which robbed his store and pointed him out to sergeant of government forces. Claimant also requested commander of government troops to arrest culprit. No action was taken. Claim *disallowed*, since it was not clear that information given by claimant was a sufficient basis for action.

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

In this case claim in the sum of \$647.47, United States currency, is made against the United Mexican States by the United States of America on behalf of John I. Howe, an American citizen, for alleged failure on the part of Mexican authorities to take proper steps to apprehend and punish some bandits or rebels responsible for the theft of property belonging to the claimant.

The facts out of which the claim arises are alleged to be as follows:

In October, 1923, Howe left the United States for the State of Veracruz, Mexico, with an emigrant car containing cattle, farm implements, household furniture and supplies. In the town of Lagos, a station on the Veracruz to Isthmus Railway, the cattle were unloaded and placed in the pasture of one E. D. Stone. Howe himself settled in the town of Isla, another station on the said Railway, and opened a store there. In December, 1923, at a time when, incident to the Adolfo de la Huerta insurrection, Government protection to the town of Lagos was withdrawn, a group of armed men, some fifty in number, drove off the cattle which Howe had placed in Stone's pasture, and during January and February, 1924, at a time when, incident to the same insurrection, Government protection was withdrawn from the town of Isla, and rebels were in possession of that town, a band of armed men came to Howe's store and robbed it of property of an alleged value of the sum claimed. In March, 1924, Government forces again came into possession of the town of Isla. Howe then informed the commander of the Government troops of the robbery of his property, and requested that steps be taken to apprehend the culprits, but no action was taken. A short time after, when Howe was travelling on a railway train, he recognized among the passengers the leader of the band which had robbed his store, and pointed him out to a sergeant who was stationed at Isla, and who, together with another soldier, was also on the train. But the sergeant took no action. Upon the arrival of the train at the next station, the soldiers and the culprit left the train. Howe also got off the train and applied to the

commander of the Government troops at that station, requesting him to have the culprit arrested, but no action was taken.

Originally compensation for the value of the cattle as well as of the merchandise was claimed, but now only the alleged value of the merchandise taken from Howe's store is claimed. It is not contended that the Mexican authorities were in a position to prevent the robbery of the store, but the contention is made that Mexico must be responsible, because the military authorities took no action when Howe requested them so to do. The Commission, however, is of the opinion that, in the light of the evidence submitted it is not clear whether the information given by Howe was of such a nature as to afford a sufficient basis for an action of the military authorities, and that, therefore, in the absence of more satisfactory evidence, no award can be rendered in the present case.

Decision.

The claim of the United States of America on behalf on John I. Howe is disallowed.

ESTHER MOFFIT (U.S.A.) *v.* UNITED MEXICAN STATES

(*May 9, 1929. Pages 288-291.*)

NON-PAYMENT OF MONEY ORDERS. Claim for non-payment of money orders *allowed.*

COMPUTATION OF AWARD.—RATES OF EXCHANGE. Award calculated on basis of payment in United States currency at rate of exchange as of date of breach of obligation, i.e., date when money orders were presented for payment and payment refused. Fact that claimant may have paid for such money orders in silver *held immaterial.*

Cross-reference: Annual Digest, 1929-1930, p. 199.

Commissioner Nielsen, for the Commission:

Claim is made in this case by the United States of America in behalf of Esther Moffit to recover the sum of \$146.97, gold currency of the United States, stated to be the equivalent of 293.94 Mexican pesos, the aggregate amount of two money orders which it is alleged were not paid on presentation to Mexican postal authorities. Interest from August 30, 1914, is also claimed on the sum of \$146.97.

The transactions on which the claim is based are described in the Memorial in substance as follows:

During the year 1914 the claimant conducted a store at Ensenada, Lower California, Mexico, and in the course of business sent the two money orders to Melcher & Company of Mazatlán, Sinaloa. The orders were returned to her by Melcher & Company with the information that they could not be cashed, as there was no money for that purpose at the post office in Mazatlán. The claimant thereupon endeavored to have the two money orders cashed at Ensenada, but her efforts were unavailing. The claimant on several occasions endeavored to cash the orders at post offices in Mexico