

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

**Jesús Navarro Tribolet, et. al., Next of Kin of Robert Tribolet, Deceased (U.S.A.)
v. United Mexican States**

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pality of taxes or as regards other matters. In other words, whether the Congress considered that the State needed more or less taxes than previously or whether the provision made by the Congress affected a municipality, as in the case under consideration, would have no bearing on the benefits which Cook enjoyed under the law of 1909. Whatever tax was imposed on real estate, irrespective of the purpose for which the tax was to be used, would be at any given time *la contribución predial correspondiente*. However, I think that under the principles which have guided the Commission in the past, the respondent Government should be entitled to the benefit of any doubt as to interpretation.

Decision

The claim of the United States of America on behalf of George W. Cook is disallowed.

JESÚS NAVARRO TRIBOLET, *ET AL.*, NEXT OF KIN OF ROBERT TRIBOLET, DECEASED (U.S.A.) *v.* UNITED MEXICAN STATES

(October 8, 1930. Pages 68-72.)

NATIONALITY, PROOF OF.—EFFECT OF CLAIMANT'S STATEMENTS CONCERNING HER NATIONALITY. One of the claimants was a Mexican by birth but later married a person who became an American citizen by naturalization. Three years after such naturalization said claimant made a declaration before a Mexican consular officer that she was a Mexican citizen. *Held.* claimant's American citizenship, acquired through naturalization of her husband, established.

DENIAL OF JUSTICE.—ARBITRARY ACTS.—LACK OF DUE PROCESS.—SUMMARY EXECUTION BY MILITARY FORCES.—FAILURE ADEQUATELY TO INVESTIGATE. An American subject was arrested by military forces on charge of participation in robbery of stage coach in which driver was killed. Without trial, benefit of counsel or opportunity to defend himself, and no investigation of guilt, he was executed within less than forty-eight hours following his arrest. Claim *allowed*.

Cross-references: Annual Digest, 1929-1930, p. 160; British Yearbook, Vol. 12; 1931, p. 168.

Comments: Edwin M. Borchard, "Recent Opinions of the General Claims Commission, United States and Mexico", *Am. J. Int. Law*, Vol. 25, 1931, p. 735 at 737.

The Presiding Commissioner, Dr. H. F. Alfaro, for the Commission:

The instant claim has been presented by the Government of the United States of America, on behalf of Jesús Navarro Tribolet, Robert, Edward and Albert Tribolet, Louise Tribolet Stanton and Eline Tribolet Clark, the first named being the widow and the others the legitimate children of Robert Tribolet, deceased.

The claim is grounded, according to the Memorial, on the following facts;

That the late Robert Tribolet was a naturalized American citizen; that he was married to Jesús Navarro Tribolet, a Mexican by birth, who, by the fact of her marriage, acquired the nationality of her husband; that of the said matrimonial union there were born in Bisbee, Arizona, United States of America, three sons, Robert, Edward and Albert Tribolet, and two daughters, Louise Tribolet Stanton and Eline Tribolet Clark; that on June 12, 1895, at a point about three miles from the ranch "Cochuta", situated approximately twelve miles southeast of Fronteras, in the State of Sonora, Mexico, the stage coach known as the Bisbee Nacosari Stage, operated by the Nacosari Copper Company, and driven by a Mexican national named Moreno, accompanied by E. W. Woodruff of the aforesaid company and James Crowley, was attacked by several armed and masked men who shot and killed Moreno, the driver of the stage and robbed the passengers of an amount approximating \$6,000.00; that on and for some time previous to this date, June 12, 1895, Robert Tribolet lived with his family on the "San Antonio" Ranch, situated approximately three miles north of Fronteras; that on the day on which the robbery and murder were committed, a number of persons saw Tribolet at work on his ranch and at about the time of the commission of the crime, several of these persons conversed with him while he was attending to his duties; that on the morning of the 26th of June, 1895, Mexican authorities presented themselves at the "San Antonio" Ranch and arrested Tribolet on a charge of having participated in the robbery and murder, and took him under a guard of Mexican troops to Fronteras where he was lodged in jail; and that on the morning of the 28th, less than forty-eight hours after his arrest and without having been proven guilty of, or tried for, any crime, he was ordered to be executed and was shot to death by Mexican officials for participation in the crime; that during the short period of his imprisonment Tribolet was not accorded the right of being heard nor was he given at any time an opportunity to defend himself or to present evidence to establish his innocence. After his imprisonment, Jesús Navarro Tribolet, the widow of the deceased, and one of the claimants herein, made numerous requests upon the appropriate authorities of Fronteras that her husband be allowed the right of counsel to represent him, but each and every one of these requests was denied; and that at the time of his death Robert Tribolet was about 35 years of age, in excellent health, and engaged in the earning of a livelihood as a stock raiser and rancher, contributing liberally to the support of his wife and their minor children, the claimants herein, who were solely dependent upon him for support.

The United States of America on behalf of Jesús Navarro Tribolet, Robert, Edward and Albert Tribolet, Louise Tribolet Stanton and Eline Tribolet Clark, asks for an indemnity in the sum of \$25,000.00 United States currency, with interest.

The Mexican Agency in its answer to the Memorial, admits the American nationality of Robert Tribolet by naturalization as well as the marriage of Robert Tribolet (senior) to Jesús Navarro, but it invites the attention of the Commission to the statement made by this lady to the Mexican Vice Consul at Tucson, Arizona, on August 15, 1893, wherein she states that she is a Mexican citizen.

The Mexican Agency denies that it has been proven that the claimants are the legitimate heirs and nearest relatives of Robert Tribolet and that

they are in consequence the possessors of the rights which it is sought to obtain by means of this claim.

The Mexican Agency likewise denies that the following have any probative value: the sworn affidavit presented by Jesús Navarro Tribolet to prove her relationship to the other claimants herein, and the annexes of the Memorial of the American Agency presented for the purpose of establishing the American nationality of Robert, Edward and Albert Tribolet, Louise Tribolet Stanton and Eline Tribolet Clark.

This with reference to the personality of the claimants. As to the other facts alleged in the Memorial, the Mexican Agency admits some, denies the allegations and charges made in connection with others and finally, maintains that even assuming that the Commission is of the opinion that the claimants are entitled to an award, the amount claimed is exaggerated and that payment of interest should not be granted under any consideration.

With respect to the declaration made by Jesús Navarro Tribolet to the Mexican Vice Consul at Tucson, Arizona, August 15, 1893, wherein she states that she is a Mexican citizen, it may be said that the said declaration made two years before the events which gave rise to this claim and three years after Robert Tribolet, her husband, became by naturalization an American citizen, cannot be regarded as sufficient to destroy her American citizenship, which she acquired in conformity with the law then in force in the United States of America and in Mexico, with reference to the citizenship of a woman as a result of her marriage to an alien.

As to the American nationality of the other claimants and their relationship to the deceased, the Commission, in accordance with a number of its decisions, is of the opinion that the evidence filed with the Memorial is sufficient.

The claimant predicates the responsibility of the Mexican Government upon the following: (a) the arbitrary act of an official of the State of Sonora, and (b) the failure of the Mexican authorities to take steps to have an investigation made of the acts of the official in question for the purpose of exonerating him officially or of imposing upon him adequate punishment.

Although there is some difference between the brief and the oral argument of the American Agency with respect to the circumstances surrounding the arrest and the subsequent death of Robert Tribolet, it seems to be fully established that he was deprived of his life by individuals belonging to the armed forces of the State of Sonora, commanded and accompanied by an officer of the forces in question, the Commandante Jacobo Méndez. It appears clearly from the records of this case that Méndez arrested Tribolet by virtue of an order transmitted by the Secretary of State of the Government of the State of Sonora, Señor Ramon Corral, June 17, 1895, which order reads as follows:

“On the 13th instant the stage coach was attacked half way between Bisbee and Nacosari by six masked men. They killed driver Moreno and stole six thousand pesos. Please issue vigorous orders to all towns for the arrest of all suspicious persons, making investigation and prosecuting those who may be guilty. Send this message to the Prefect of Moctezuma by special messenger in order that he may comply with these instructions.”

That Commandante Jacobo Méndez acted in compliance with orders received from the Prefect of Moctezuma is proven by the report he rendered to the said official on June 30, 1895, which appears as annex number 2 of the Answer of the Mexican Agent.

Admitting that in view of these orders and the special circumstances of the case, Commandante Méndez would have been justified in effecting the arrest of Tribolet without the formality of an individual warrant of arrest, it is unquestionable that the facts which developed afterwards are of such seriousness that even accepting the narration of events of Méndez as true, they called for an investigation in order either to establish clearly his justification or to impose upon him the legal penalty.

In cases analogous to the present one, concerning claims of Mexican nationals against the United States of America and vice versa, this Commission has recognized in accordance with International Law and in conformity with Article I of the General Claims Convention of September 8, 1923, that the defendant Government is responsible for the damages caused by the acts of an official of the State which has resulted in injustice.

For the foregoing reasons and having in mind the standard set by this Tribunal in determining the amount of the awards in the cases referred to, the Commission decides that the claimants should receive an award of \$12,000.00 United States currency, without interest.

Decision

The United Mexican States shall pay to the United States of America on behalf of Jesús Navarro Tribolet, Robert Tribolet, Louise Tribolet Stanton, Eline Tribolet Clark, Edward Tribolet and Albert Tribolet the sum of \$12,000.00 (twelve thousand dollars) United States currency, without interest.

OSCAR C. FRANKE (U.S.A.) *v.* UNITED MEXICAN STATES

(October 8, 1930, *dissenting opinion by American Commissioner, undated. Pages 73-82.*)

DENIAL OF JUSTICE.—ILLEGAL ARREST.—MISTREATMENT DURING ARREST.—CRUEL AND INHUMANE IMPRISONMENT. Claimant was arrested by minor official without warrant of arrest and was compelled to walk to a town 28 kilometers distant in a pouring rain, without stopping for food or drink or being allowed to communicate with anyone, within a period of five hours. On his arrival he was confined in an open stock pen for one hour and then released. The minor official in question reported that he had found claimant and another individual, who was also arrested at the same time, engaged in shipping lumber in violation of a court order. Claim *disallowed*.

EVIDENCE BEFORE INTERNATIONAL TRIBUNALS.—UNCORROBORATED STATEMENTS AS EVIDENCE. Uncorroborated report of minor official accepted as sufficient proof of truth of statements therein made.

Commissioner Fernández MacGregor, for the Commission:

This claim is presented by the United States of America against the United Mexican States demanding from the latter, in behalf of Oscar C. Franke, an American citizen, the payment of \$5,000.00 United States currency, it being alleged that the claimant was arrested and detained