

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

**Halifax C. Clark and Olive Clark, Joint Executors of the Estate of Alfred Clark,
Deceased (U.S.A.) v. United Mexican States**

8 October 1930

VOLUME IV pp. 615-616



NATIONS UNIES - UNITED NATIONS
Copyright (c) 2006

of 1853 was dismissed by the umpire. Case of *McLeod, Moore*, *International Arbitrations*, vol. 3, p. 2419.

Payment must be made for property appropriated for use by belligerent forces. Unnecessary destruction is forbidden. Compensation is due for the benefits resulting from ownership or user. In dealing with the precise question under consideration by such analogous reasoning as we consider it to be proper to employ, we must take account of things which in the light of international practice have been regarded as proper, strictly defensive measures employed in the interest of the public safety. Generally speaking, international law does not require that even nationals of neutral countries be compensated for losses resulting from such measures. In giving application to principles of law it is pertinent to bear in mind that it is rights of such persons with which international tribunals have generally been concerned in the disposition of claims arising in the course of hostile operations. Rights secured to nationals of enemy governments are generally dealt with in peace arrangements in a preliminary or final way. However the existence of such rights appears to be interestingly recognized in Article III of the Convention of The Hague of 1907 respecting the law and customs of war on land.

The loss sustained by the claimant is of course regrettable. The record reveals the high estimate put upon his services by the President of the railroad company. He was the victim of unfortunate occurrences, and in the light of the principles which have been discussed, the Commission is of the opinion that it cannot properly award him compensation.

Fernández MacGregor, Commissioner:

I agree that this case must be disallowed. The landing of American forces in Vera Cruz gave the right to any Government of Mexico to take defensive measures for its territory, sanctioned by international law, among which is certainly included the right to remove the North American citizens employed on the Mexican railways which were to be used for strategic purposes.

Decision

The claim of the United States of America on behalf of E. R. Kelley is disallowed.

HALIFAX C. CLARK and OLIVE CLARK, JOINT EXECUTORS OF THE ESTATE OF ALFRED CLARK, DECEASED (U.S.A.) v. UNITED MEXICAN STATES

*(October 8, 1930, concurring opinion by Mexican Commissioner, October 8, 1930.
Pages 94-95.)*

CONTRACT CLAIMS.—EXERCISE OF SOVEREIGN RIGHTS.—DEFENSIVE MEASURES
IN INTEREST OF PUBLIC SAFETY.—MEASURES OF SELF-PROTECTION IN
TIME OF WAR.—EFFECT OF WAR ON CONTRACTS.—TRADING WITH THE
ENEMY.—CONFISCATION OF ENEMY PRIVATE PROPERTY. Claim arising

under circumstances similar to those set forth in *E. R. Kelley* claim *supra* allowed.

NATIONALITY OF LEGAL REPRESENTATIVES.—CLAIM ON BEHALF OF ESTATE. Nationality of legal representatives in claim on behalf of estate of a deceased American subject is immaterial.

(Text of decision omitted.)

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

(October 8, 1930, concurring opinion by Mexican Commissioner, October 8, 1930. Pages 96-97.)

CONTRACT CLAIMS.—EXERCISE OF SOVEREIGN RIGHTS.—DEFENSIVE MEASURES IN INTEREST OF PUBLIC SAFETY.—MEASURES OF SELF-PROTECTION IN TIME OF WAR.—EFFECT OF WAR ON CONTRACTS.—TRADING WITH THE ENEMY.—CONFISCATION OF ENEMY PRIVATE PROPERTY. Claim arising under circumstances similar to these set forth in *E. R. Kelley* claim *supra* allowed.

(Text of decision omitted.)

BELLE M. HENDRY (U.S.A.) *v.* UNITED MEXICAN STATES

(October, 8 1930, concurring opinion by Mexican Commissioner, October 8, 1930. Pages 97-99.)

CONTRACT CLAIMS.—EXERCISE OF SOVEREIGN RIGHTS.—DEFENSIVE MEASURES IN INTEREST OF PUBLIC SAFETY.—MEASURES OF SELF-PROTECTION IN TIME OF WAR.—EFFECT OF WAR ON CONTRACTS.—TRADING WITH THE ENEMY.—CONFISCATION OF ENEMY PRIVATE PROPERTY. Claim arising under circumstances similar to those set forth in *E. R. Kelley* claim *supra* allowed.

NATIONALITY OF LEGAL REPRESENTATIVES.—CLAIM ON BEHALF OF ESTATE. Nationality of legal representatives in claim on behalf of estate of a deceased American subject is immaterial.

NATIONALITY, PROOF OF.—ADMISSION OF NATIONALITY BY RESPONDENT GOVERNMENT.—ESTOPPEL. Nationality of deceased American subject held established in light of evidence thereof furnished by claimant Government, admission thereof in brief a respondent Government, and estoppel of respondent Government to deny such nationality arising out of fact he was discharged by respondent Government because he was an American.

(Text of decision omitted.)
