

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

C. E. McFadden (Great Britain) v. United Mexican States

10 February 1930

VOLUME V p. 115



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proof did not devolve upon it, according to the Convention, no proof whatever was produced to establish the fact. The bare principle contained in section V of Article III of the Convention, is this: "The British Government is obliged to prove the Mexican Government's negligence in all cases included in subdivision 5 of Article III of the Convention." In the present case the British Government has not complied with that obligation. Therefore, the Mexican Government should be held not liable for the acts committed by Higinio Aguilar.

C. E. McFADDEN (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 20, February 10, 1930. Pages 155-156.*)

DIRECT SETTLEMENT OF CLAIM BETWEEN AGENTS. A claimant whose coal had been requisitioned by the Huerta Government for public use but who had never been paid for the same by any Mexican Government, despite repeated requests for payment, settled by agreement between British and Mexican Agents, approved by the tribunal.

(*Text of decision omitted.*)

MEXICAN UNION RAILWAY (LIMITED) (GREAT BRITAIN)
v. UNITED MEXICAN STATES

(*Decision No. 21, February , 1930, dissenting opinion by British Commissioner, undated. Pages 157-175.*)

CALVO CLAUSE.—RESPONSIBILITY FOR ACTS OF FORCES. Claims by a British corporation, owner of a railroad in Mexico operated under a concession from the Mexican Government in connexion with which claimant had agreed to a Calvo Clause, for damages resulting from acts of Indian, rebel, revolutionary and State government forces, *held* not within the jurisdiction of tribunal.

EXHAUSTION OF LOCAL REMEDIES. The responsibility of a State under International Law is subordinated to the exhaustion of local remedies. Article VI of *compromis*, setting aside this rule, does not deprive Calvo Clause of its effect as long as there has been no denial or undue delay of justice or other international delinquency.

Cross-references: Am. J. Int. Law, Vol. 24, 1930, p. 388; Annual Digest, 1929-1930, p. 207.

Comments: Clyde Eagleton, "*L'épuisement des recours internes et le déni de justice, d'après certaines décisions récentes*", Rev. de Droit Int. L. C., 3d Ser., Vol. 16, 1935, p. 504 at 519; Sir John H. Percival, "International Arbitral Tribunals and the Mexican Claims Commissions", Jour. Compar. Legis. and Int. Law, 3d Ser., Vol. 19, 1937, p. 98 at 103; G. Godfrey Phillips, "The Anglo-Mexican Special Claims Commission", Law Q. Rev., Vol. 49, 1933, p. 226 at 236; Lionel Summers, "*La clause Calvo: tendances nouvelles*", Rev. de Droit Int., Vol. 12, 1933, p. 229 at 230.