

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Mary Hale (Great Britain) v. United Mexican States

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cannot accept a similarity between this clause and the clause inserted in the concession dealt with in decision No. 21.

The majority holds the view that a so-called Calvo Clause, to be respected in international jurisprudence, must be drafted in such a way as not to allow any doubt as to the intentions of both parties. The Commission cannot see that this has been done in article 7 of the concession.

6. The majority of the Commission has another objection against acknowledging the clause, on which the Mexican Agent relied.

The clause forms part of a contract between a concessionaire and the Municipal Corporation of the town of Colima, a local authority. Although this contract has been approved by the Congress of the State of Colima, it is not a deed to which the United Mexican States have been party.

It is the opinion of the Commissioners that provisions affecting citizenship, the rights of foreigners, naturalization, etc., to be valid before an international tribunal, must emanate from treaties, the national legislation, decrees of the National Government, or deeds signed by or on behalf of such a Government. They cannot be regarded as valid, when they are stipulated by a local corporation, which is not entitled to dispose of such vital matters as the right of a concessionaire to appeal to his Government.

7. The fact that in this case the clause was one of the conditions on which a municipal concession was granted, gives rise to another consideration.

The stipulation, on which the motion is based, is part of a contract to which the Mexican Government were no party.

The majority of the Commission considers this to be another very important discrepancy between this case and the claim of the Mexican Union Railway (Limited), which had contracted with the same Government against which the claim was directed.

Here the Government had nothing to do with the concession. For the Government the contract was *res inter alios acta*. From the Government is claimed compensation not for the non-observation of the contract, but for losses outside any contractual relation.

The majority of the Commissioners fail to see how the Government can derive rights from this contract to which they were not a party.

8. The Commission disallows the motion, invites the Mexican Agent to file his answer to the claim, and reserves its decision on claimant's ownership until the claim shall be examined on its merits. The Mexican Commissioner reserves his right to present a dissenting opinion.

MARY HALE (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(Decision No. 28. April 10, 1931. Pages 26-27.)

NATIONALITY, PROOF OF. Evidence of nationality of widow of British subject held satisfactory.

(Text of decision omitted.)
