

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Carl Olof Lundholm (Great Britain) v. United Mexican States

28 April 1931

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For this reason the decision already delivered in the claim of Mr. Roy will have to be carefully studied as it may furnish valuable material for judgment on the claim on its merits.

At the same time, the Commission wish it to be understood that the amount already received by claimant, will of course be taken into consideration in fixing any award which the Commission may feel justified in allowing.

6. The Motion to Dismiss is disallowed.

The Mexican Commissioner expresses a dissenting opinion.

CARL OLOF LUNDHOLM (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 34, April 28, 1931. Pages 43-44.*)

RESPONSIBILITY FOR ACTS OF FORCES.—MILITARY ACTS. *Held*, no responsibility existed for acts of forces engaged in a battle taking place in the course of a rebellion, whether such forces be governmental or rebel.

The Memorial filed by the British Agent claims compensation for damages suffered by the claimant, Carl Olof Lundholm, a British naturalized subject, to his house at Coyoacan during a battle in February 1915 between the Constitutionalist forces and the Zapatista army, and for the robbery and destruction of the furniture and fittings of the house by Zapatistas, who afterwards took possession of the house.

The Memorial sets out the facts relative to the acquirement of the house and furniture and relates the occurrences giving rise to the claim. In February 1915 the Constitutionalist forces were established on the River Churubusco and a battle was fought between them and the Zapatista army on the ranch "Tasqueña". During the battle the house suffered serious damage, its walls and roof being pierced by shells. The Zapatistas, in order to dislodge the Constitutionalist forces from Coyoacan, took possession of the house. They took away all movables and destroyed the installation of water and light and carried away the iron-work of the doors and windows. The claim was for a total of 17,670 pesos (Mexican gold) arrived at as set out in the Memorial.

2. The claim was partly heard on its merits by the Commission during the term of the Convention, dated the 19th November, 1926, and further hearing was adjourned for the cross-examination of witnesses. This having taken place, also under the Convention of the 19th November, 1926, the claim came up for further and final hearing before the Commission under the Convention dated the 5th December, 1930, as now constituted.

3. The British Agent then stated that he did not desire to argue further the case, because if the damage was caused by Constitutionalist forces, it must be considered as the consequence of a lawful act of war, and if it was caused by Zapatistas, it did not fall within subdivision 4 of Article 3 of the Convention of the 5th December, 1930, as the fighting itself proved that there was no negligence on the part of the Government.

4. The Mexican Agent did not, in these circumstances, address any argument to the Commission on the merits of the claim, but asked the Commission in its decision to classify Zapatistas, the Mexican contention being that these

were not included in any of the subdivisions of Article 3 of the Convention of the 5th December, 1930, the date of the occurrence in this case being subsequent to November 1914.

5. The Commission decide that it is not necessary for the purposes of this case, in view of the statement and admission of the British Agent, to make any classification of Zapatistas and their position, but that it is sufficient to say that they do not see how the British Agent, on the facts of the case, could have taken any other course than he did, and they dismiss the claim under review, making no declaration or classification of the position of Zapatistas.

6. The claim is dismissed accordingly.

HERBERT CARMICHAEL (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 35, April 29, 1931. Pages 45-48.*)

NATIONALITY, PROOF OF.—NOTARY PUBLIC'S CERTIFICATE OF NATIONALITY AS EVIDENCE. Certificate of Canadian notary public *held* insufficient proof of nationality.

Cross-reference: Annual Digest, 1931-1932, p. 424.

Comments: G. Godfrey Phillips, "The Anglo-Mexican Special Claims Commission", *Law Q. Rev.*, Vol. 49, 1933, p. 226 at 233.

1. This is a claim for compensation for the losses and damages suffered by Herbert Carmichael on the Hacienda Coacoyolitas, in the State of Sinaloa, and Las Mariquitas o Romeros in the State of Nayarit, during the years 1915-19 inclusive.

The Memorial sets out that in December 1912 Herbert Carmichael purchased through Messrs. Francisco Echeguren y Cia. Sucrs., of Mazatlán, in the State of Sinaloa a property situated in the State of Nayarit, known as Las Mariquitas o Romeros, for the sum of 26,000 pesos Mexican gold. This property was paid for in full by the claimant. Owing to the revolution and the withdrawal of land registry facilities from Acaponeta the claimant was unable to secure the registration of his clear title to the property. At the time of purchase Las Mariquitas contained a large brick hacienda, outbuildings, a sugar mill, agricultural machinery and implements, live-stock and growing crops. The estate was operated for little over a year, when revolutionary parties and bandits overran the country and drove off his major-domo and the peons. The claimant has made many attempts to operate this property without success, and the last man who ventured on the property for purposes of its welfare was murdered. No effort was made by the Mexican Government or its officials to afford protection in this very disturbed area. The claimant sold his property in 1923 for the sum of 5,000 pesos. Loss on this property was therefore at least 21,000 pesos.

On the 15th February, 1913, Herbert Carmichael purchased from Señor Federico Ramirez of Mazatlán a portion of the property known as Coacoyolitos, Pitayas and Laguna Larga in the State of Sinaloa. The purchase price was 35,000 pesos gold, of which 20,000 pesos gold was paid in cash, and interest at the rate of 8 per cent per annum on the balance has been paid up to June