

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Annie Engleheart (Great Britain) v. United Mexican States

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- (3) That the train was thrown off the rails through a defective switch,
- (4) That a local passenger train had, a short time before, passed without accident,
- (5) That the defect of the switch was due to the fact that it had been secretly spiked and tampered with,
- (6) That those who were responsible for this act were Maderistas.

5. If an international tribunal were to accept all these allegations without evidence, it would expose itself to the not unjustifiable criticism of placing jurisdiction as between nations below the level prevailing in all civilized states for jurisdiction as between citizens. The Commission fully realize, as they have already expressed in their decision No. 2 (*Cameron*) No. 3, that in international jurisdiction technical rules of evidence may be less restricted and less formal than in lawsuits before a domestic tribunal. That in the admission of evidence great liberality can obtain, has been shown by the Commission on several occasions, but in the present claim there is no question of the admission or the value of evidence: there is an absence of evidence and the greatest liberality cannot overcome this defect.

6. The Commission also realize that the weighing of outside evidence, if any such be produced, may be influenced by the degree to which it was possible to produce proof of a better quality. In cases where it is obvious that everything has been done to collect stronger evidence and where all efforts to do so have failed, a court can be more easily satisfied than in cases where no such endeavour seems to have been made. This consideration has guided and will guide the Commission in other cases, for instance, as regards the fixing of the amount of the award. But in the claim now before them the Commission cannot believe that it would have been impracticable to produce at least some corroboration of the statements of the claimant.

The wrecking of a military train by revolutionaries in the neighbourhood of one of the principal towns of the country, is a fact that could hardly have passed unnoticed. It must have left some trace in the archives of the Railway Company and in the contemporary press. Mr. Odell relates that on the fatal spot itself he was attended to by a surgeon, that the Superintendent of the Railway Company at Puebla also spoke to him at the scene of the derailment, that he was as soon as possible taken to the Hospital at Puebla, that he resumed work nine months later, and that finally, in June 1912, he was given a certificate of dismissal on account of his disability to serve.

It is difficult to believe that none of those sources could furnish confirmation of one or more of the facts alleged by the claimant.

7. The claim is disallowed.

ANNIE ENGLEHEART (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 40. May 13, 1931. Pages 65-67.*)

AFFIDAVITS AS EVIDENCE. An affidavit of claimant, unsupported as to circumstances of loss, though with corroborative evidence as to certain other details, held insufficient evidence.

(*Text of decision omitted.*)
