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**RECUEIL DES SENTENCES
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Alfred Hammond Bromly (Great Britain) v. United Mexican States

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confiscation, produced the affidavits of Paul Weber, May Crimshawe and Florence Crimshawe, without having in any way referred to any authentic orders from the authorities.

(2) The Mexican Agent has, in rebuttal of the above evidence, produced official communications from the Departments of War and Finance and from the Governor of the State of Oaxaca, denying the fact of such confiscation and the existence in the National Army of the officers to whom the act was attributed.

(3) The said Mexican Agent has filed the evidence of witnesses, in order to contradict the fact asserted by the British Agent, and his witnesses agreed with the official communications from the above-mentioned authorities, to the effect that no such confiscation had taken place.

10. The Commission do not, in the presence of this conflicting evidence, find sufficient reasons for declaring that confiscation of the claimants' property has been proved.

11. For the above reasons, and without entering upon the task of considering the arguments upheld by the Mexican Agent, the Commission declare that the Government of Great Britain have not established the fact of the confiscation of the claimants' property by the Mexican authorities, and in consequence.

12. The Commission disallow the instant claim.

ALFRED HAMMOND BROMLY (GREAT BRITAIN) *v.* UNITED
MEXICAN STATES

(*Decision No. 81, July 22, 1931. Pages 235-238.*)

RESPONSIBILITY FOR ACTS OF FORCES.—FAILURE TO SUPPRESS OR PUNISH. When the evidence established that the respondent Government had sent troops to pursue and punish bandits, for whose acts claim was made, though the result of such pursuit did not appear, claim *dismissed*.

1. The Memorial sets out that Mr. Alfred Hammond Bromly was engineer to the "Nueva Buenavista y Anexas, S.A." Company and was residing on the estate "Los Laureles". At 6 o'clock in the morning of the 20th February, 1913, he was awakened by continuous firing, and was informed that the house was being attacked. Shortly afterwards a parley took place between a Mr. Gorow and the chief to the assailants, who requested that the house should be evacuated. This request was refused, and thereupon the shooting began again. At this moment Mr. Bromly noticed a man named Chacón in the courtyard, who said he was a messenger of the bandits. As this man was a suspicious person, Mr. Bromly followed him to the exterior corridor, where he (Chacón) fell dead, a victim to a bullet fired from outside. Shortly afterwards the gang retired. Mr. Bromly and his companions learned from a youth named Pedro N., that the gang was composed of thirty persons, and that they had retired to La Yesca to bring up the remainder of their friends to complete the capture of the house. The total band was composed of about 130 persons under the command of Sacramento Sernón, who had been engaged in revolutionary pursuits at Tepic, ten days before, under the name of Don Félix Díaz. Previous to the attack the revolutionaries had stolen horses and harness from the stables, and had threatened the youth Pedro with penalties if he gave the alarm.

Pedro also informed Mr. Bromly that the labourers employed by the company had been killed by these Antimaderistas while they (the labourers) were running to the house for arms. After consultation it was decided to retire to the mine as the house was defenceless against so many. The revolutionaries returned shortly afterwards accompanied by armed civilians, and proceeded to attack the estate. Mr. Bromly was informed subsequently that the assailants were police officers without uniforms. The official version of these events was to the effect that the soldiers accompanied by the company's operatives, had approached the house in a peaceful manner and had been brutally fired upon by Messrs. Goisueta and Gorow without previous warning, and, as a result of this, there were a certain number of deaths. Mr. Bromly asserts that this is absolutely untrue. Mr. Bromly and others remained for two days in the buildings attached to the mine. On the 22nd February he was informed that Manuel Miramón would arrive in a few hours' time at the head of 400 revolutionaries, and, as this chief had a bad reputation, Mr. Bromly and his companions hired horses and left without delay. On their arrival at Hostotipaquillo, they informed the Government official in charge of what had occurred, and received every assistance and an escort from him. During the second attack on the estate the place was ransacked and Mr. Bromly suffered considerable loss.

The amount of the claim is one thousand three hundred and twenty-five pesos thirty centavos Mexican currency.

2. The Commission after consideration of all of the evidence produced to them have come to the conclusion that the attacking parties on the 20th February, 1913, were bandits. There is no evidence that they were revolutionaries, still less revolutionaries whose revolution afterwards succeeded. The sworn Exhibit A to Mr. Bromly's affidavit describes them in one place as "revolutionary bandits", in others as "bandits", and as "Maderista bandits", and as "gangs". In the letter from R. Gonzalez dated the 26th February, 1913 (part of the further evidence filed by the British Agent), written immediately after the occurrences, they are also described as "bandoleros" (bandits), and "bandidos". And in the extract from the Guadalajara Times of the 1st March, 1913, filed by the British Agent as further evidence, they are also referred to as "bandits".

This being so, and classing the attackers and robbers as the Commission feel compelled to do, as bandits or brigands, within subdivision 4 of Article 3 of the Convention, it remains for the Commission to decide whether the Government of Mexico can be held responsible for their acts, for any of the reasons set out in the said subdivision of Article III of the Convention.

3. The time when the events occurred was on the establishment or on the eve of the establishment of the Huerta régime and the overthrow of the Madero Government by Huerta. Madero is stated to have been taken prisoner on the 18th February, 1915, to have resigned on the 19th February, and to have been killed either on the 22nd or the 23rd February. If the acts were committed during the Madero régime, blame would have to be proved as attaching to these authorities. If, on the other hand, the Madero régime had then been overthrown and Huerta in power on the 18th February, as argued by the Mexican Agent, then the Huerta régime would be responsible for the events of the 20th February provided neglect or blame on their part were shown and unless liability for acts of omission is excluded by the provisions of the new and amended Convention.

4. But the Commission do not think it necessary for the purposes of this case to discuss or decide this last point, as they do not consider that any blame

has been shown attaching to the authorities whoever they were. According to the newspaper extract already referred to, the Government sent troops to pursue the bandits and punish them. It does not appear what the result was, but the Commission are unable to see any sufficient grounds proved upon which they can fix financial responsibility on the Government of Mexico in this case, within the terms of the Convention.

5. The claim is dismissed.

ERNEST FREDERICK AYTON (GREAT BRITAIN) *v.* UNITED
MEXICAN STATES

(*Decision No. 82, July 22, 1931. Pages 238-241.*)

AFFIDAVITS AS EVIDENCE.—NECESSITY OF CORROBORATING EVIDENCE. When the fact of loss is established only by claimant's affidavit, *held*, evidence insufficient.

(*Text of decision omitted.*)

MAZAPIL COPPER COMPANY (LIMITED) (GREAT BRITAIN)
v. UNITED MEXICAN STATES

(*Decision No. 83, July 22, 1931. Pages 241-242.*)

DIRECT SETTLEMENT OF CLAIM BETWEEN AGENTS. Direct settlement of claim by agreement between British and Mexican Agents approved by tribunal.

(*Text of decision omitted.*)

WILLIAM ALEXANDER KENNEDY (GREAT BRITAIN) *v.* UNITED
MEXICAN STATES

(*Decision No. 84, July 22, 1931. Pages 242-244.*)

DAMAGES, PROOF OF.—FORCED OCCUPANCY. Claim for damages sustained as a result of the occupancy of claimant's house for several days by revolutionary forces. Supporting evidence indicated, contrary to claimant's statements, that forces in question at most occupied house overnight, and evidence of loss was otherwise of a doubtful character. Claim *dismissed*.

1. In this case the claimant, according to the Memorial, on or before the 18th February, 1916, occupied a house at Tlahualilo, in the State of Durango. About this date Villista forces, numbering some five hundred men, under the direct command of Canuto Reyes, a subordinate of Francisco Villa, attacked Tlahualilo. After a short fight the federal garrison were driven out. The officers