

**REPORTS OF INTERNATIONAL
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**RECUEIL DES SENTENCES
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**The Sonora (Mexico) Land and Timber Company (Ltd.) (Great Britain) v. United
Mexican States**

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as its not being in any way authenticated, have induced the Commission to abstain from accepting this document as the corroboration of Blackmore's statement.

The Commission realize that the above declaration only refers to damage sustained during the period comprised between the years 1918 to 1920, and does not contain any indication whatsoever from which the character of the forces responsible for those acts might be inferred, information which is indispensable for establishing Mexico's liability therefor, according to Article III of the Claims Convention, Mexico and Great Britain.

(4) As regards the various complaints which were, according to the Memorial (annex 3) made to the Governor of the State, and the local authorities, in February 1917, no proof has been submitted of their actually having been made; such proof would have been of great assistance to the Commission, which cannot, in consequence, find sufficient grounds on which to grant any compensation.

4. In view of the above considerations—
5. The Commission disallow the instant claim.

THE SONORA (MEXICO) LAND AND TIMBER COMPANY
(LIMITED) (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 100, August 3, 1931. Pages 292-297. See also decision No. 63.*)

CORPORATE CLAIMS. Evidence *held* sufficient to establish compliance with *compromis* in claim filed by British corporation for losses sustained by virtue of its interest in a Mexican corporation.

RESPONSIBILITY FOR ACTS OF FORCES.—FAILURE TO SUPPRESS OR PUNISH.—NON-PRODUCTION OF EVIDENCE BY RESPONDENT GOVERNMENT. Acts of violence committed over many years by insurrectionary forces and forces of a similar character, as covered by the *compromis*, *held* to be presumed to be within the knowledge of the proper authorities and, since no action taken by them has been shown, claim *allowed*.

DAMAGES, LOSS OF PROFITS. Claim for loss of profits based on rate of profits prior to damage *held* too problematical to be allowed.

1. This claim is for 398/400ths of the losses suffered by the Compañía Explotadora de Tierras y Maderas de Sonora (Mexico) S.A. (hereinafter referred to as the Mexican Company), through the acts of revolutionary or counter-revolutionary forces during the years 1912-1920 inclusive.

The interest of the claimants, the Sonora (Mexico) Land and Timber Company, Limited, a British Company, in the losses suffered by the Mexican Company is as follows:

On the 9th January, 1911, the Sonora (Mexico) Land and Timber Co., Ltd. (hereinafter referred to as the British Company), was formed to hold and develop certain land in the State of Sonora. The land was duly acquired and was vested in a Mexican Company, the Compañía Explotadora de Tierras y Maderas de Sonora (Mexico) S.A., which was formed on the 30th January, 1913, under Mexican laws with a capital divided into four hundred shares of 1,000 pesos each. More than 50 per cent of this capital was at the time of the

Company's formation and still is held by British subjects, and is now held to the extent of 132 shares by William Richardson, a British subject, 88 shares by Lionel Skipwith, a British subject, 88 shares by George Grinnell-Milne, a British subject, 88 shares by Henry Chaplin, a British subject, 1 share by Alexander Baird, a British subject, and 1 share by James Paxton, a British subject. The shareholders of the Mexican Company were at the time of its formation and still are the nominees of the Sonora (Mexico) Land and Timber Company, Limited. In accordance with the terms of Article 3 of the Convention between His Majesty's and the Mexican Government for the settlement of British pecuniary claims in Mexico arising from loss or damage from revolutionary acts between the 20th November, 1910, and the 31st May, 1920, the Mexican Company has allotted to each British shareholder the proportional part of its losses and damages pertaining to the number of shares held. Each British shareholder has in his turn assigned to the Sonora (Mexico) Land and Timber Company, Limited, the rights allotted to him by the Mexican Company. The Sonora (Mexico) Land and Timber Company, Limited, is therefore now the sole claimant for 398/400ths of the losses suffered by the *Compañía Explotadora de Tierras y Maderas de Sonora (Mexico) S.A.*

Six claims have been formulated by the Mexican Company. The first is for losses incurred through raids of revolutionaries in 1912 and 1913, and for compensation for the stoppage of the Mexican Company's sawmill; the second is for the loss of 1,304 head of cattle through raids of revolutionaries; the third is for horses, cattle and other property taken by revolutionaries on the 11th February, 1915; the fourth is for losses due to the raids of revolutionaries in October and December, 1915; the fifth is for losses due to the occupation of the Company's property by a band of Carrancistas during June, 1916; and the sixth is for compensation for the stoppage of the sawmill and all the Company's operations on its property during the period November 1912 to May 1920. These claims are in the Memorial dealt with in detail.

Claim 1

During the month of February 1912 the State of Sonora was greatly troubled by bandits or revolutionaries, and on the 19th February, 1912, a band of some twenty-four bandits under the command of Adolfo Dunagon and José Rodríguez raided the Company's ranch at Nogales. They took away eight horses, some saddlery, two carbines and one revolver, for which they gave a receipt. Repeated attempts had been made by the Company's officials to obtain the protection of the State from those bandits, but no steps were taken by the competent officials. During subsequent months in 1912, various other small raids took place. On a few occasions the Governor of Sonora sent small parties of Federal soldiers for the property but always after the raids had been committed. During August 1912 the revolutionaries who had been operating in the State of Chihuahua moved towards Sonora, and at the end of the month some 2,000 of these revolutionaries were in the eastern part of Sonora. The Company's manager telegraphed twice to President Madero asking for the protection of troops and suggesting means by which these troops could be despatched from Juárez. Unfortunately the Mexican Government neglected to take these steps until after the damage to the Company's property was incurred. On the 1st September, 1912, some 150 men under Campas took seven horses and some stores. On the 4th September, 1912, the leader, Emilio Campo, with 200 men raided and ransacked the ranch. This band and others on various subsequent dates killed a number of cattle belonging to the Company. From the 1st September until the 1st October, 1912, the Company was

obliged to suspend operations as employees would not venture on the ranch. Consequently cattle and horses were not attended to, and the crops then ripe could not be properly harvested. The Company's manager made continuous efforts to obtain protection from the Mexican Government, but in spite of assurances that there were sufficient troops in Sonora, no Federal soldiers visited the ranch during August and September 1912. As a result of the enforced cessation of its operations, the Company lost some 200 calves and some 12,500 pesos Mexican gold.

The amount of this claim is \$31,897.54 Mexican gold. The values are given in United States gold dollars. These values have been converted to Mexican gold pesos at the rates of exchange ruling at the time of the losses. Bankers' certificates in support of the rates of exchange used are given.

Claim 2

About the year 1911 the Mexican Company stocked the ranch, Hacienda Mababi, in the State of Sonora, with 3,492 head of cattle. Up to the beginning of 1914, 4,007 calves had been branded, making a total of 7,499 head of cattle. Of this number the Company's records show that 6,012 head had died, been sold, slaughtered or otherwise disposed of, and only 183 head remained on the ranch. The remaining 1,304 head are the losses due to thefts by various groups of bandits and thieves who were, owing to the lack of Government protection and in spite of the vigilance of the Company's employees, able to operate on the ranch. Repeated and urgent requests for protection were sent to the authorities and, although on several occasions soldiers were sent to the ranch, they, with one exception, made no attempt to suppress the bandits. Captain Martinez from Cannanea on one occasion caught and hanged a thief.

The amount of this claim is \$71,720, being the value of the 1,304 head of cattle stolen by bandits and other persons.

Claim 3

On the 11th February, 1915, a body of some 400 men under command of Colonel Hara entered the Hacienda Mababi and proceeded to round up all the Company's horses and mules. Colonel Hara's attention was drawn to the order of the then Governor of Sonora, Señor José M. Maytorena, which stated that nothing on the Hacienda was to be touched, and to a similar order issued by General Urbalejo. No notice was taken of these orders. After Colonel Hara's departure, the main body of troops under General Sosa arrived at the Hacienda. This General allowed his troops to act as they pleased and considerable damage was done to the estate. Owing to the lawless state of the country, the Company suffered additional losses up to the month of June 1915. The amount of the claim is \$8,532.50.

Claim 4

During the month of October 1915 the State of Sonora was invaded by parties of armed men belonging to the forces of General Pancho Villa, but the Carrancista troops in various parts of the State made no attempt to repel these men. On the 29th October, 1915, some twenty Villistas under the command of Major José Torres visited the Hacienda Mababi and took away eleven mules, three horses, a buggy, a wagon, harness and other stores. Early in December 1915 General Villa entered the State with from ten to fifteen thousand men and a large force of artillery. After his unsuccessful attack on Agua Prieta, General Villa split up his forces and these bands roamed the country looting

and destroying property. On the 5th December, 1915, some 2,500 of these men under General José Rodríguez arrived at the ranch and stayed five days, during which time they looted, burned or destroyed everything they could find. Considerable structural damage was done to the ranch buildings and practically all the live-stock was confiscated by them.

The amount of this claim is \$36,402.75 Mexican gold.

Claim 5

About the end of the month of June 1916 there was a strong feeling against all foreigners in the State of Sonora, and on the 21st of that month the Company's foreign employees abandoned the property and stayed at Douglas, Arizona, U.S.A., for about a month. During their absence, a party of Carrancista soldiers under the command of Colonel Padilla were stationed on the Hacienda at the express orders of General P. Elías Calles. These soldiers used and/or destroyed a quantity of stores and supplies. The Company's officials were at the time repeatedly assured by General Calles, through the Mexican Consul at Douglas, that the occupation of the Hacienda was merely for the purpose of its protection, that nothing would be touched, and that any supplies needed for the soldiers would be paid for in cash. No payment was made at the time, and subsequent efforts to obtain reimbursement proved to be fruitless.

The amount of this claim is \$3,453.90 pesos Mexican gold.

Claim 6

From a date prior to November 1912 until May 1920, and for some time later, the Company were unable to proceed with the development of the Hacienda. The sawmill was stopped owing to the operations of armed bands or forces of revolutionaries and of the armed forces of the Government which was from time to time in power. After taking account of the profits formerly made by the Company, it is estimated that the losses suffered through the enforced cessation of operations were at the rate of \$150,000 Mexican gold pesos per annum.

The amount of this claim is \$1,125,000 Mexican gold pesos, being \$150,000 Mexican gold pesos for the period of seven and a half years, i.e., from November 1912¹ to May 1920.

The total amount of these six claims is \$1,277,006.69 Mexican gold pesos, and this represents the losses and damages suffered by the *Compañía Exploradora de Tierras y Maderas de Sonora (Mexico) S.A.*, during the period from the 20th November, 1912,¹ to the 31st May, 1920.

It has been explained earlier in this Memorial that the claimant company is interested in these losses to the extent of 398/400ths. The amount of this interest is \$1,270,621.65 Mexican gold.

The British Government claim on behalf of the *Sonora (Mexico) Land and Timber Company, Limited*, the sum of \$1,270,621.65 Mexican gold.

2. Following Decision No. 63 the British Agent has filed the documents indicated in paragraphs 14 and 15 thereof.

3. The Commission do not feel at liberty to include in an award any compensation for the loss of profits claimed in part VI of the Memorial because they consider this item as too problematical.

4. As regards certain other parts of the claim, the Commission have, in the declaration of Mr. A. V. Dye, formerly American Consul at Nogales (Sonora) found corroboration of the affidavits of the Directors of the Company. They

¹ In the original report: 1910.

have also found sufficient evidence that the losses referred to in those portions of the claim were due to the acts of persons falling within subdivision 4 of Article 3 of the Convention. As those acts, committed over a period of many years, cannot have escaped the knowledge of the competent authorities, and as no proof of any action taken by them has been shown, the Company is entitled to compensation.

5. The Commission deem that the total amount of the losses to be thus compensated for has been proved up to \$72,500 pesos, 398/400ths of which is to be awarded to the claimant.

6. The Commission decide that the Government of the United Mexican States is obligated to pay to the British Government, on behalf of the Sonora (Mexico) Land and Timber Company (Limited), the sum of \$72,137.50 (seventy-two thousand one hundred thirty-seven pesos and fifty centavos) Mexican gold, or an equivalent amount in gold.

JOSEPH TAYLOR (MESSRS. NORCROSS AND TAYLOR) (GREAT
BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 101, August 3, 1931. Pages 297-299.*)

PARTNERSHIP CLAIM. A partnership was formed by two individuals, one of whom subsequently died, with the business thereafter being carried on by the surviving partner, claimant herein. In such capacity, and before partnership was finally dissolved and claimant had paid heirs of deceased partner for his interest in business, losses complained of were suffered. Prior to filing of claim such acts were completed by claimant. *Held*, surviving partner is entitled to present the claim.

RESPONSIBILITY FOR ACTS OF FORCES.—FAILURE TO SUPPRESS OR PUNISH. An attack by rebel or other forces upon train on principal railroad of country *held* an act of public notoriety resulting in responsibility on the part of respondent Government in absence of proof of action taken by competent authorities.

1. This is a claim for the loss of three consignments of cotton yarn which were destroyed on the 10th January, 1914, by a party of rebels at Galera, on the Mexican Railway, while in transit from Nogales to Mexico City.

The Memorial sets out that in 1900 Mr. Joseph Taylor and Mr. Harold Norcross formed a partnership known as Norcross and Taylor and were engaged in the business of cotton spinning. Mr. Harold Norcross died on the 16th August, 1909, and during the winding-up of his estate the firm continued to trade in the name of Norcross and Taylor. The partnership was finally dissolved on the 27th May, 1916, and as Mr. Taylor paid to the heirs of Mr. Norcross his full share on account of capital and profits to the 16th August, 1909, he became the sole owner of the business. Details of the various deeds effecting this transfer of interest in the property of the partnership are given in Mr. John Harrison's affidavit. It follows, therefore, that all business transactions made in the name of Norcross and Taylor since the date of the 16th August, 1909, were in fact made in the name of Mr. Joseph Taylor, who was the sole person interested.

On the night of the 10th January, 1914, Messrs. Norcross and Taylor consigned from Nogales Station to their agents, Messrs. Watson Phillips and Co., Successors, 4A, San Agustin, No. 103, Mexico City, three consignments of cotton yarn.