

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES  
ARBITRALES**

**Joseph Taylor (Messrs. Norcross and Taylor) (Great Britain) v. United Mexican  
States**

3 August 1931

VOLUME V pp. 267-268



NATIONS UNIES - UNITED NATIONS  
Copyright (c) 2006

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.

These consignments, under vouchers Nos. 23, 24 and 26, were loaded on train No. 12, belonging to the Mexican Railway Company, which left Nogales Station at 9.50 p.m. on the 10th January. When the train had reached a place known as Galera it was attacked by a large party of rebels. These rebels ransacked the train and afterwards set fire to a number of the wagons forming it. Of the three consignments of cotton yarn only one badly-damaged bale was recovered, the remainder being destroyed by fire. Judicial proof of the destruction of this train is given in one of the annexes to the Memorial. The Mexican Railway Company, in notifying Messrs. Watson, Phillips and Co., Successors, and Messrs. Norcross and Taylor of the loss of the three consignments of cotton yarn, declined all responsibility for this loss on the grounds of *force majeure*.

The amount of the claim is 6,318.18 pesos Mexican. A certificate of the value of the three consignments of cotton yarn is given in one of the annexes.

The British Government claim on behalf of Mr. Joseph Taylor the sum of 6,318.18 pesos Mexican.

2. Although at the time of the assault on the train, the business was still being carried on in the name of the firm of Norcross and Taylor, the Commission after examining the terms of the dissolution of the firm, regard Mr. Joseph Taylor as entitled to present the claim.

3. In the opinion of the Commission, the goods which were destroyed, belonged to the claimant and not to his agent, to whom they were consigned.

4. The Commission have found sufficient evidence of the facts in the documents filed with the claim. They are also satisfied on the strength of the same documents, that the attacking forces were rebels or brigands, falling within subdivision 4 of article 3 of the Convention.

5. As it has not been shown that any action was taken by the competent authorities, to which an assault on a train on the principal railroad of the country must have been known, the Commission declare that negligence has been established.

6. The amount having been proved by the invoices, the Commission decide that the Government of the United Mexican States is obligated to pay to the British Government, on behalf of Mr. Joseph Taylor, the sum of \$6,318.18 (six thousand three hundred and eighteen pesos eighteen centavos) Mexican gold or an equivalent amount in gold.

---

#### EDITH HENRY (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 102, August 3, 1931. Pages 299-303. See also decision No. 61.*)

---

RESPONSIBILITY FOR ACTS OF FORCES.—FAILURE TO PROTECT.—FAILURE TO SUPPRESS OR PUNISH. Upon representations by British and American Legations that residents of town were in imminent danger of their lives, Government forces occupied the town but thereafter withdrew overnight without notice. The next day rebel forces entered the town, killed claimant's husband and looted property. Claimant escaped in a destitute condition. Though British Legation informed respondent Government of events and requested apprehension and punishment of murderers, it did not appear that any action was taken by the authorities. *Held*, responsibility of respondent Government established.