

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

J. H. Henderson (Great Britain) v. United Mexican States

3 August 1931

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junior, on the 8th August, 1928. It appears that the claim as originally drawn up included some losses which occurred in the year 1921, and these losses were excluded in the final draft of the claim, but by error the original total of 14,291.96 pesos remained. The correct amount is as stated above, 14,186 pesos Mexican. The ranch foreman, Luis Hernandez, states in his affidavit that the prices charged for the stock and other property taken by revolutionary and Federal forces are fair and reasonable. In an affidavit made by Winchester Kelso, junior, on the 27th June, 1927, before Royal W. King, notary public in and for Bexar County, Texas, it is stated that the amount of the claim is based on the actual price realized from sales of such property during the period of these losses.

No claim for these losses has ever been presented to the Mexican Government, and no compensation, either in whole or in part, has ever been received by the Company. The claim belonged at the time solely and absolutely to the Mariposa Company and has now been allotted solely and absolutely to the individual British shareholders.

The British Government claim on behalf of the British shareholders of the Mariposa Company the sum of 14,186 pesos Mexican.

2. The Commission answer the question whether the shareholders are entitled to claim and whether they possess British nationality, in the affirmative. They are of opinion that the allotments have been made in due form.

3. The Commission have found evidence of part of the alleged losses and they have come to the conclusion that the losses, as far as established, have been caused either by Constitutionalists or by Villistas.

As regards the Constitutionalists, Mexico must be held financially responsible, according to subdivision 2 of Article 3 of the Convention, and as regards the Villistas, the Commission have taken into account the fact that, in so far as the taking of the cattle is concerned, that where this is not covered by subdivision 2 of Article 3 of the Convention, it was to a large extent confiscated in order to supply the population of the town of Muzquiz with meat. It seems a postulate of equity, to award compensation for cattle thus exacted.

4. The Commission, acting along these lines, feel at liberty to grant compensation for 80 cows, five horses and 471 kilogrammes of corn. The amounts claimed for these items have, in their opinion, been sufficiently proved.

5. The Commission decide that the Government of the United Mexican States is obligated to pay to the British Government, on behalf of the British Shareholders of the Mariposa Company, the sum of \$4,877.10 (four thousand, eight hundred seventy-seven pesos and ten centavos) Mexican gold or an equivalent amount in gold.

J. H. HENDERSON (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 104, August 3, 1931. Pages 307-309. See also decision No. 30.*)

RESPONSIBILITY FOR ACTS OF FORCES. Identity of forces causing loss must be established.

FAILURE TO SUPPRESS OR PUNISH. When notice of acts of banditry was given to the authorities in due time but it was not shown that they ever took any action, claim *allowed*.

1. As regards the facts on which the claim is based, the Commission refer to their Decision No. 30.

2. The Majority of the Commission have found that the transfer by Mr. Chadwick of his interest in the firm to the late Mr. David Young Henderson has been duly established.

3. Although the losses sustained by the firm, and set out in annex 2 to the Memorial, have been sufficiently proved, the Commission have not, by any document, been enabled to identify the forces that committed the acts.

For this reason, it is not possible to decide whether the events are covered by the Convention.

4. The Commission have also found sufficient evidence in respect of the losses suffered by Mr. Henderson on his ranch La Uranga, and it has been shown, by receipts and other testimony, that those responsible were either Zapatistas or Constitutionals.

As regards the Constitutionals, they fall within subdivision 2 of Article 3 of the Convention. And as regards the Zapatistas, their acts must be regarded as banditry, because they were committed after the establishment of the *de facto* Government of Señor Carranza.

It has been proved that the Municipal President of Cuautlancingo was informed in due time of the occurrences, but it has not been shown that he ever took any action.

The Commission feel bound to consider this as proof of negligence on the part of the competent authorities, and they consequently deem that the claimant is entitled to compensation.

In the opinion of the Commission the amount has been proved up to 10,000 pesos, Mexican gold.

5. The Commission decide that the Government of the United Mexican States is obligated to pay to the British Government, on behalf of Mrs. J. H. Henderson, the sum of \$10,000 (ten thousand pesos) Mexican gold, or an equivalent amount in gold.

J. M. FRASER (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 105, August 3, 1931. Pages 309-311.*)

RESPONSIBILITY FOR ACTS OF FORCES.—FAILURE TO SUPPRESS OR PUNISH.

Evidence *held* to establish that authorities used due diligence in apprehension of bandits guilty of murder of claimant's husband. Claim *disallowed*.

1. This is a claim for compensation for the murder of her husband, Alexander Fraser, by rebels on the 30th July, 1916, at El Pozo, in the State of Guanajuato, Mexico.

It is alleged in the Memorial that the late Mr. Alexander Fraser was the general manager of the Cob. Negociación Minera Angustias Dolores y Anexas at Pozo, Guanajuato. On the 31st July, 1916, Mr. Fraser had just left the Hacienda de Beneficio and was proceeding towards the mine by a tram-route, which passes nearby. Four armed horsemen approached by a path from the high ground in the direction of the electric light plant and called to Mr. Fraser to stop. Mr. Fraser did not take any notice, and it is quite possible that he did not hear them call, as he was deaf. One of the horsemen fired a shot