

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

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**RECUEIL DES SENTENCES  
ARBITRALES**

**James W. Hambleton (Great Britain) v. United Mexican States**

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That being so, the Convention does not entitle the Commission to grant an award.

4. The claim is disallowed.

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JAMES W. HAMBLETON (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 106, August 3, 1931. Pages 311-316.*)

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RESPONSIBILITY FOR ACTS OF FORCES.—FAILURE TO SUPPRESS OR PUNISH.—DILATORY ACTION BY AUTHORITIES. British subjects were attacked and robbed by armed forces, of which immediate notice was given by telephone to commander of Government forces stationed only a ten minutes' walk away. Notice was also given by telephone to the local judge. Troops arrived an hour and a half later and the judge arrived some four hours later. No action was taken by the civil or military authorities to apprehend and punish the guilty. *Held*, responsibility of respondent Government established.

DEATH OF CLAIMANT, EFFECT OF—UPON CLAIM FOR PERSONAL INJURIES. British Agent ceased to press claim for personal injuries following death of claimant.

DAMAGES, PROOF OF. A lump sum award granted for stolen property and personal injury, together with expenses which the latter entailed. When claimant left his house more than a year prior to the alleged looting of it by armed forces which had occupied it, evidence of loss *held* insufficient.

PUNITIVE DAMAGES. A punitive award *held* not to be justified.

1. The Memorial brings forward two claims. The first claim is in respect of damages for personal injuries and robbery at the hands of armed men at Parral on the 12th February, 1912; the second in respect of the looting of the house and office of Mr. James W. Hambleton at Parral during the years 1916-17 inclusive by Villistas and Federal troops.

Mr. James W. Hambleton died on the 21st April, 1925, leaving a will appointing his wife, Margarita Flores, sole executrix and heiress of all his property. Mrs. Hambleton is now the sole claimant.

*Claim 1*

The facts are set out in an affidavit made jointly by James W. Hambleton, a British subject, and Margarita Flores, the wife of James W. Hambleton, on the 5th April, 1913, before a notary public in and for the County of El Paso, Texas.

Mr. James W. Hambleton was established in Parral City, Chihuahua, as agent of the Compañía Metalúrgica de Torreón at that place, and was also engaged in mining and ore-buying on his own account. On the 12th February, 1912, Mr. Hambleton was living in his house near the railway station at Parral with his wife and three children. At 8 o'clock in the evening the family had almost finished their dinner, when, without warning, the front door was flung open and a masked man armed with a pistol jumped into the room,

ordering them not to move. Mr. Hambleton grappled with the man, but four other men had come into the room and by weight of numbers overpowered him. These five men stabbed Mr. Hambleton in the throat and face with the points of their daggers, causing blood to flow freely. Mrs. Hambleton and the children became hysterical from fright and shock, and Mr. Hambleton, realizing the danger in which they were placed, appealed to the robbers to take what they wanted without resorting to further violence. The robbers then allowed Mr. Hambleton to rise, and at the points of their pistols led him to the office adjoining the house and ordered him to open the safe. The robbers took 1,400 pesos Mexican currency from the safe. On their return to the house Mr. Hambleton discovered that the remainder of the band, about ten persons, had entered from the back of the house and ransacked the place. He found that his wife had been assaulted and roughly handled by one of the robbers and was bleeding from a stab in the throat. The robbers then ordered Mr. Hambleton to open his wife's safe, from which they took about 200 pesos Mexican currency. The robbers also took jewellery amounting to the value of 3,500 pesos Mexican, and 600 pesos Mexican which Mrs. Hambleton had placed in her jewellery box. The robbers also took several guns and other articles belonging to Mr. Hambleton, the values of which are given in the affidavit. After this the robbers left the house, and Mr. Hambleton immediately telephoned General José de la Luz Soto, the Federal Military Commander of Parral, explaining what had happened. Although the General promised to send troops immediately, it was an hour and a half before they arrived, in spite of the fact that the barracks were only ten minutes' walk away. The robbers had by this time made good their escape. Mr. Hambleton also telephoned to the Judge at Parral who, some four hours afterwards, arrived and took his deposition of the case and then left. Mr. Hambleton was not aware of any action taken by the civil or military authorities in Parral to bring the robbers to justice.

There were two watchmen employed by Mr. Hambleton on the night of the 12th February, 1912, one at the house and one at the platform of the railroad about 50 yards away. The robbers approached the man on the platform and asked for Mr. Hambleton. When they were near enough, they jumped at him, and putting pistols to his head, threatened him with death if he moved. The robbers then tied him up and threw him in the scale-house, where Mr. Hambleton found him after the affair was over. These robbers then went to the electric light switch and turned off the lights in the patio. The house watchman seeing the lights turned off, went to investigate and was met by four men, who threatened him with death if he made an outcry. The robbers wore the regulation dress of the Maderista troops, and from the fact that they were well acquainted with Mr. Hambleton's house and the position of the electric light switch and the safes, and from personal observation, Mr. and Mrs. Hambleton were of the opinion that these men were part of the troops under the command of General Soto. Mr. Hambleton afterwards learnt that nearly all General Soto's troops were out in patrols in the city that evening.

As a result of her treatment Mrs. Hambleton suffered from a serious nervous breakdown. She was attended first by Dr. Alvarez, a local physician at Parral. On the 14th February Mr. Hambleton was obliged to move his family to El Paso, in view of the insecurity and danger to which they were subjected. He then placed his wife under the care of Dr. Robinson of that town. Dr. Robinson's affidavit on the condition of Mrs. Hambleton's health is given in "Exhibit A" to this affidavit. It appears that Mrs. Hambleton will never completely recover from her breakdown.

The state of Mrs. Hambleton's health was such that Mr. Hambleton was obliged to maintain her in El Paso while he travelled to and from Parral on

business. The extra expense to which Mr. Hambleton was put is estimated to be at least \$10,000 U.S. currency.

The amount of the claim is:

(1) 50,000 dollars, United States currency, as punitive and exemplary damages for the barbarous assault on Mr. James W. Hambleton.

(2) 50,000 dollars, United States currency, as punitive and exemplary damages for the barbarous assault on Margarita Flores, the wife of Mr. James W. Hambleton.

(3) 10,000 dollars, United States currency, as damages and compensation for the loss of money from the office safe, robbery of guns, pistols, etc., and the extra expense and loss of business due to the enforced removal from Parral to El Paso.

(4) 4,300 pesos Mexican, being the value of jewellery and money stolen by the robbers from Mrs. Hambleton. Interest at such rates as the Commission may decide to award is also claimed as from the date of each loss or damage.

As Mr. Hambleton has since died, His Majesty's Government are of opinion that his claim of 50,000 dollars United States currency as damages for personal injuries must be considered to have lapsed. Although the claim for personal injuries suffered by Mrs. Hambleton is high, His Majesty's Government have the claimant's authority to reduce it to a more reasonable amount. There are obvious difficulties in assessing the proper amount to claim, and His Majesty's Government prefer to ask the Commission to assess the amount of compensation which they consider to be appropriate in this case, having regard to the mental and physical shock suffered by Mrs. Hambleton and to the position that she occupied.

#### *Claim 2*

The facts are set out in a Memorial signed by James W. Hambleton on the 30th August, 1921, and addressed to His Majesty's Consul-General at Mexico City.

After the events described in Claim 1, Mr. James W. Hambleton continued to carry on his business in Parral up to the end of June 1915. At this time conditions were so bad and the campaign of Villistas against foreigners was so severe that he left his property in charge of his foreman, Encarnación Ogaz, and certain watchmen, and moved to El Paso, Texas. On the 5th November, 1916, the Villistas under the command of Francisco Villa, took the town of Parral, and Villa made his headquarters in Mr. Hambleton's house at Parral. Villa beat Mr. Hambleton's foreman and servant and threatened them with death for having served a foreigner. Villa made his headquarters in this house, with occasional absences, until the 5th January, 1917, when the troops under the command of General Murguía moved in and set up their headquarters there. On the 20th January, 1917, the Villistas were again in possession, and on the 10th February men under the command of Nicolas Fernandez moved into Mr. Hambleton's house. On the following day the Commands of Colonel Maltus and Lieutenant-Colonel Vega made their headquarters there. On the 15th April troops under General Amaro; on the 10th May troops under General Sarvazo; on the 27th July troops under General González; and on the 19th August troops under the command of General Escobar respectively made their headquarters in this house. During this period, the forces which occupied Mr. Hambleton's house from time to time completely sacked and stripped it of everything of value. Mr. Hambleton had complained of his losses to His Majesty's Ambassador in Washington, and he heard later that a report made by Colonel Castaños confirmed that Villa had partially looted

the claimant's house and that Government forces had finished looting it. Certificates as to the condition of Mr. Hambleton's house from notary public, Sr. Manuel Gomez y Salas, who visited the house on the 3rd December, 1916, and again on the 21st August, 1917, are given in "Exhibits C" and "D" to this Memorial.

The amount of the claim is 36,025 pesos gold, together with interest from the date of loss at such rate as the Commission may decide to award. A detailed statement of Mr. Hambleton's losses is given in "Exhibit A" to this Memorial.

His Majesty's Government claim on behalf of Mrs. James W. Hambleton, or as she is known in Mexico, Margarita Flores Vda. de Hambleton, the sum of:

(1) 50,000 dollars United States currency, or such compensation as the Commission may decide to award for Mrs. Hambleton's personal injuries.

(2) 10,000 dollars United States currency for loss of business and certain articles belonging to the late Mr. Hambleton.

(3) 4,300 pesos Mexican gold, being the value of Mrs. Hambleton's personal property stolen by armed men.

(4) 36,025 pesos Mexican gold, being the loss due to the looting of Mr. Hambleton's house in 1916-17.

(5) Interest in each case from date of loss or damage at such rate as the Commission may consider equitable.

2. The first part of the claim seems sufficiently proved by the late Mr. Hambleton's affidavit, corroborated by the documents showing that the British Minister and the British Vice-Consul at Chihuahua took immediate action after the assault happened.

The Commission must classify the men who committed the attack as bandits, and they do not hesitate to declare that the competent authorities were to blame. The Minister for Foreign Relations of the Republic was at once informed by the British Minister, and the Military Commander of Parral as well as the local Judge were immediately advised by telephone by Mr. Hambleton. It has not been shown that any measures were taken.

For this reason the claimant is entitled to compensation.

3. The Commission prefer to lump together into one sum the award for the stolen property, and the compensation for the personal injury, and the expenses which the latter must have entailed.

They have taken into consideration that there is not in this case any question of loss of earning power, and that a so-called punitive award does not seem to be justified. They fix the amount at 9,000 pesos, Mexican gold.

4. As regards the second part of the claim, the Commission have found evidence that Mr. Hambleton's house, as from the 5th November, 1916, was the headquarters of Francisco Villa and other military commanders, but they are not satisfied that the house was as a consequence of this occupation completely sacked.

From the documents it results that Mr. Hambleton left Parral in June 1915, and that, therefore, over a year elapsed before Villa took possession of the house. What happened in the meantime has not been made clear, and the witnesses produced by the Mexican Agent deposed that when Villa came the house was empty.

The Commission failed to see sufficient ground to base an award upon.

5. The Commission decide that the Government of the United Mexican States is obligated to pay to the British Government, on behalf of Mrs. James W. Hambleton, the sum of \$9,000 (nine thousand pesos) Mexican gold or an equivalent amount in gold.

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