

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
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**The Tomnil Mexican Mining Company (Ltd.) (Great Britain) v. United Mexican
States**

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The amount claimed has not been proved to the full extent, because (a) not all the leaders could be identified, and (b) not all the figures are substantiated.

The Commission allow, for this part of the claim \$4,300 (four thousand three hundred pesos) Mexican gold.

3. *Part II.*—In the opinion of the Commission the concentration order of the Carrancista leader Miranda has been proved. The order was delivered on the 29th May, 1915, at a time when the Carrancista movement had not yet succeeded in establishing a Government *de facto* or *de jure*. For this reason the Commission cannot consider the order as a lawful act within the meaning of the Convention.

While it is uncertain for how long the concentration order was to be in force, the Commission have found sufficient evidence that revolutionary circumstances made it necessary to leave the property abandoned during several years after the concentration. This is, *inter alia*, proved by annex 12 of the Memorial, being a letter dated the 7th May, 1917, from the Department of Finance of the State.

The alleged losses do, therefore, fall within subdivision 2 of Article 3 of the Convention, and the Commission deem that compensation to the extent of \$80,000 (eighty thousand pesos) Mexican gold, may safely be granted.

4. *Part III.*—The Commission see no ground for allowing an award for expenditure incurred in keeping the property, as far as was possible, in good order. They do not regard this expenditure as a loss, but as a means of avoiding loss.

5. *Part IV.*—The Commission are of opinion that in this case the direct connexion between the facts and the alleged consequences of the same, has not been sufficiently proved to enable them to grant an award upon it.

6. The Commission decide that the Government of the United Mexican States is obligated to pay to the British Government, on behalf of the El Palmar Rubber Estates (Limited) (in liquidation), the sum of \$84,300 (eighty-four thousand three hundred pesos) Mexican gold or an equivalent amount in gold.

THE TOMNIL MEXICAN MINING COMPANY (LIMITED) (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 108, August 3, 1931. Pages 321-323.*)

RESPONSIBILITY FOR ACTS OF FORCES.—FAILURE TO SUPPRESS OR PUNISH.—NECESSITY OF NOTICE TO AUTHORITIES. In absence of evidence that the competent authorities were informed of the acts of bandits complained of, *held* no responsibility of respondent Government existed.

RIOT.—MOB VIOLENCE. No responsibility of respondent Government *held* to exist under the *compromis* for losses sustained by rioting during a strike.

1. The Memorial gives the following statement:

The claimant Company was a prosperous mining enterprise with its main properties in the Tomnil District, in the State of Durango. During the revolutionary period from 1910 to 1920, the Company suffered the following damages:

(a) Early in March 1912 a revolution broke out. Pilar Quinteros appeared at the Company's mine with a number of his men and took from the Company rifles, mules, horses and cows, to the value of \$1,333.80.

(b) At about the same time Quinteros demanded and received from the Company the sum of \$120 pesos.

(c) At about the same time Emiliano Aispuro and his men visited Tomnil and obtained from the Company the sum of \$100 pesos in cash, promising that such sum would be deducted from the taxes paid by the Company to the State of Durango.

(d) Pilar Quinteros also took from the Company's warehouse corn for his mules and horses and took from the Company's smelter two cases of dynamite, nails and canvas to manufacture bombs; under this head there are claimed \$200 pesos.

(e) Owing to the activities of Quinteros and his men, there was a strike for three weeks of the employees of the mine, and the Company, in consequence, incurred expenses to the amount of \$970 pesos.

During all this time, as appears from the statement of Mr. Henry Cribb, the Company repeatedly appealed to the Mexican Government for protection, but the Government, although at the time there were troops available in the district under Claro Molino, took no steps to furnish the necessary protection.

(f) The Company further suffered the following damage:

During the month of July 1912, riots took place at the Company's premises and the Company's employees declared a strike, and the Company was compelled to pay to the rioters the sum of \$836.75 pesos. Ultimately, the Government belatedly sent an escort to the mine, but no steps were taken to punish those who had attacked the Company's property and staff, and the Government officer, León Meraz, deliberately failed to do his duty.

(g) Owing to the activities of Quinteros and his men, the Company were forced to incur a loss of \$20,000 pesos, owing to extra expenditure incurred on account of the disorderly state of affairs.

(h) The Company further claims \$90,000 pesos owing to depreciation of stock.

(i) The Company further claims \$40,000 pesos in respect of repairs which will have to be undertaken owing to the damage caused by the cessation of work due to the Revolution.

(j) In May 1912 at a time when there had been no authority in the district for some ten months, the safety vault of the Company was broken open and gold and silver bars were stolen, to the value of \$6,000 pesos. The authorities in Mazatlán refused to give any assistance to the Company.

(k) In the early part of 1912 the Mexican Government confiscated from the Company 2,000 Winchester cartridges of the value of \$150 pesos.

(l) The Company further claims \$100,000 pesos in respect of loss of profits.

The British Government claim on behalf of the Tomnil Mexican Mining Company, Limited, the sum of 258,610.55 pesos.

2. The Commission have come to the conclusion that Pilar Quinteros and Emiliano Aispuro must be considered as bandits. As there is no evidence that the competent authorities were informed of their acts, Mexico cannot be made responsible for the losses caused by them.

3. The Commission hold the view that the consequences of a strike, and the acts of violence accompanying a strike—if no other intervention is shown—do not fall within the terms of the Convention.

4. The Commission have not found evidence of the other losses claimed.

5. The claim is disallowed.
