

**REPORTS OF INTERNATIONAL
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**RECUEIL DES SENTENCES
ARBITRALES**

**Home Frontier and Foreign Missionary Society of the United Brethren in Christ
(United States) v. Great Britain**

18 December 1920

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rick Gerring, Jr., together with fishing equipment. Amicable settlement between Governments.

Cross-Reference: Am. J. Int. Law, vol. 8 (1914), p. 655.

Bibliography: Nielsen, pp. 575-576.

The Tribunal considering that an amicable settlement of this case has been arrived at by the Governments concerned, according to which the Canadian Government is disposed to place at the disposal of the United States Government a sum of nine thousand dollars (\$9,000), to be employed in blotting out the recollection by the American citizen affected of an incident which, on its side, the Government of the United States will regard henceforth as finally and from every point of view closed and settled,

Decides that the said settlement shall be put on the record of this Tribunal, and shall be complied with by the Governments in conformity therewith.

HOME FRONTIER AND FOREIGN MISSIONARY SOCIETY OF THE UNITED BRETHERN IN CHRIST (UNITED STATES)

v. GREAT BRITAIN

(December 18, 1920. Pages 423-426.)

COLONIAL TAX POLICY.—EXERCISE OF SOVEREIGNTY. Imposition of hut tax a fiscal measure in accordance with general usage in colonial administration and usual practice in African countries, to which British Government perfectly entitled in legitimate exercise of sovereignty.

MOB VIOLENCE.—GOOD FAITH, NEGLIGENCE, STANDARDS OF PROTECTION OF ALIENS.—AWARENESS OF RISK. Claim in respect of losses and damages during native rebellion in 1898 in British Protectorate of Sierra Leone. No Government responsible for act of rebellious bodies of men committed in violation of its authority, where it is itself guilty of no breach of good faith, or of no negligence in suppressing insurrection. Good faith of British Government cannot be questioned, and from outbreak of insurrection British authorities took every measure available for repression. Impossible to judge system of police and protection of life and property in savage regions of Africa by standard of highly civilized countries or cities. Missionary Society must have been aware of perils to which it exposed itself. Great Britain held not responsible.

EXTRAJUDICIAL ACTION. Tribunal recommends that Great Britain repair losses as far as possible as an act of grace.

Cross-references: Am. J. Int. Law, vol. 15 (1921), pp. 294-297; Annual Digest, 1919-1922, pp. 173-174.

Bibliography: Nielsen, pp. 421-422; Annual Digest, 1919-1922, pp. 376-377.

This is a claim for \$78,068.15 together with interest thereon from May 30, 1898, presented by the United States Government on behalf of an American religious body known as the "Home Frontier and Foreign Missionary Society of the United Brethren in Christ". The claim is in respect of losses and damages sustained by that body and some of its members during a native rebellion in 1898 in the British Protectorate of Sierra Leone.

The facts are few and simple.

In 1898 the collection of a tax newly imposed on the natives of the Protectorate and known as the "hut tax" was the signal for a serious and widespread revolt in the Ronietta district. The revolt broke out on April 27 and lasted for several days. As is common in the more uncivilized parts of Africa, it was marked by every circumstance of cruelty and by indiscriminating attacks on the persons and properties of all Europeans.

In the Ronietta district, which was the centre of the rebellion, the Home Missionary Society had several establishments: the Bompeh Mission at Rotofunk and Tiama, the Sherbro-Mendi Mission at Shengeh, the Avery Mission at Avery, and the Imperreh Mission at Danville and Momaligi.

In the course of the rebellion all these missions were attacked, and either destroyed or damaged, and some of the missionaries were murdered.

The rising was quickly suppressed, and law and order enforced with firmness and promptitude. In September, October, and November such of the guilty natives as could be caught were prosecuted and punished. (British answer, annexes 15, 16, and 17.)

A Royal Commissioner was appointed by the British Government to inquire into the circumstances of the insurrection and into the general position of affairs in the Colony and Protectorate.

On the receipt of his report, as well as of one from the Colonial Governor, the Secretary of State for the Colonies came to the conclusion that though some mistakes might have been made in its execution, the line of policy pursued was right in its main outlines and that the scheme of administration, as revised in the light of experience, would prove a valuable instrument for the peaceful development of the Protectorate and the civilization and well-being of its inhabitants (British Blue Book, Sierra Leone, C. 9388 and 1899, part 1, p. 175).

On February 21, 1899, the United States Government (British answer, annex 39,) through its Embassy in London, brought the fact of the losses sustained by the Home Missionary Society to the attention of the British Government. In his reply on October 14, 1899, Lord Salisbury repudiated liability on behalf of the British Government with an expression of regret that sensible as it was of the worth of the services of the American missionaries, there was no fund from which, as an act of grace, compensation could be awarded.

The contention of the United States Government before this Tribunal is that the revolt was the result of the imposition and attempted collection of the "hut tax"; that it was within the knowledge of the British Government that this tax was the object of deep native resentment; that in the face of the native danger the British Government wholly failed to take proper steps for the maintenance of order and the protection of life and property; that the loss of life and damage to property was the result of this neglect and failure of duty, and therefore that it is liable to pay compensation.

Now, even assuming that the "hut tax" was the effective cause of the native rebellion, it was in itself a fiscal measure in accordance not only with general usage in colonial administration, but also with the usual practice in African countries (Wallis, *Advance of our West African Empire*, p. 40).

It was a measure to which the British Government was perfectly entitled to resort in the legitimate exercise of its sovereignty, if it was required. Its adoption was determined by the course of its policy and system of administration. Of these requirements it alone could judge.

Further, though it may be true that some difficulty might have been foreseen, there was nothing to suggest that it would be more serious than is usual and inevitable in a semi-barbarous and only partially colonized protectorate, and certainly nothing to lead to any apprehension of widespread revolt.

It is a well-established principle of international law that no government can be held responsible for the act of rebellious bodies of men committed in violation of its authority, where it is itself guilty of no breach of good faith, or of no negligence in suppressing insurrection. (Moore's International Law Digest, vol. VI, p. 956; VII, p. 957; Moore's Arbitrations, pp. 2991-92; British answer, p. 1.)

The good faith of the British Government can not be questioned, and as to the conditions prevailing in the Protectorate there is no evidence to support the contention that it failed in its duty to afford adequate protection for life and property. As has been said with reference to circumstances very similar, "it would be almost impossible for any government to prevent such acts by omnipresence of its forces" (Sir Edward Thornton-Moore's Arbitrations, pp. 3-38).

It is true that the Royal Commissioner criticized in his report the mode of application of certain measures. But there is no evidence of any criticisms directed at the police organization, or the measures taken for the protection of Europeans. On the contrary, it is clear that from the outbreak of the insurrection the British authorities took every measure available for its repression. Despite heavy losses, the troops in the area of revolt were continually increased. But communication was difficult; the risings occurred simultaneously in many districts remote from one another and from any common centre; and it was impossible at a few days' or a few hours' notice to afford full protection to the buildings and properties in every isolated and distant village. It is impossible to judge the system of police and protection of life and property in force in the savage regions of Africa by the standard of countries or cities which enjoy the social order, the respect for authority, and the settled administration of a high civilization. A Government can not be held liable as the insurer of lives and property under the circumstances presented in this case (see *Wipperman case*, Ralston's International Law and Procedure, No. 491, p. 231).

No lack of promptitude or courage is alleged against the British troops. On the contrary the evidence of eye-witnesses proves that under peculiarly difficult and trying conditions they did their duty with loyalty and daring, and upheld the highest traditions of the British army.

Finally it is obvious that the Missionary Society must have been aware of the difficulties and perils to which it exposes itself in its task of carrying Christianity to so remote and barbarous a people. The contempt for difficulty and peril is one of the noblest sides of their missionary zeal. Indeed, it explains why they are able to succeed in fields which mere commercial enterprise can not be expected to enter.

For these reasons, the Tribunal is of opinion that the claim presented by the United States Government on behalf of the Home Missionary Society has no foundation in law and must be dismissed.

But if His Britannic Majesty's Government in consideration of the service which the Home Missionary Society has rendered and is still rendering in the peaceful development of the Protectorate and the civilization of its inhabitants, and of the support its activities deserve, can avail itself of any fund from which to repair as far as possible the losses sustained in the native revolt, it would be an act of grace which this Tribunal can not refrain from recommending warmly to the generosity of that Government.

For these reasons and subject to this recommendation

The Tribunal decides that this claim must be dismissed.
