

I. R. CLARK (U.S.A.) *v.* UNITED MEXICAN STATES

(October 18, 1928, Pages 131-132.)

Commissioner Nielsen, for the Commission :

Claim in the amount of \$25,000.00 is made in this case by the United States of America against the United Mexican States in behalf of I. R. Clark. The claim is grounded on complaints made by the claimant that he was illegally arrested and imprisoned by Mexican authorities, and that he was mistreated in connection with his arrest.

The occurrences upon which this claim is grounded are the same as those stated in the opinion rendered in the case of *L. J. Kalklosch*, Docket No. 708.¹

Although it was contended in the instant case that Clark was the victim of an illegal arrest without a warrant and of gross mistreatment in jail, the case was, to some extent, differentiated by counsel for the United States from the Kalklosch case, in that it was said that possibly there may have been some cause for the arrest of Clark.

An important point is raised in the instant case with respect to damages suffered by the claimant. It is alleged in the Memorial and there is evidence to support the allegation that when the claimant was in jail at Altamira, a drunken Mexican was placed in the cell with the claimant, and that the former, without provocation, and under encouragement of Mexican soldiers, dealt the claimant a very severe blow on the head which produced great pain and resulted in a permanent condition of deafness in both ears. Whatever may be the facts with respect to this particular matter, careful consideration must be given in connection therewith to what may be called expert testimony accompanying the Memorial. That is an affidavit of a physician made on May 18, 1921, in which he states that on April 28 of that year he made a thorough examination of the claimant Clark and found his hearing decidedly impaired and the tympanic membranes dull and retracted but otherwise apparently normal. He further says that he can not definitely state the exact cause of this condition which "might have occurred from a number of causes", but could have resulted from a sudden and violent blow on the ear.

There is not before the Commission evidence upon which to base a definite conclusion with respect to this particular item of damage claimed by the claimant. An award of \$200.00 may be rendered in his favor.

¹ See page 412.

Decision.

The United Mexican States shall pay to the United States of America the sum of \$200.00 (two hundred dollars) in behalf of I. R. Clark, without interest.
