

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

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

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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

which did not hit Mr. Fraser, and thereupon Mr. Fraser stopped to talk to them. While he was talking one of the four horsemen shot him. Three more shots were fired. When it was possible to reach Mr. Fraser it was found that he was dead. It is understood that the person in command of the rebels was General J. Jesús Núñez, and that one of the men who fired the shots was Pedro Villanueva. Mr. Fraser's watch was stolen and his wallet was found empty a few yards away from the body. The rebels then proceeded to the office of the mine, where they took 20,000 pesos in infalsificable notes and 1,000 pesos in gold. From there they went to the village of Pozos, and after having stolen various things, left in the direction of the Hacienda de Santa Ana.

On the next day an investigation as to the cause of Mr. Fraser's death was made before the Municipal Judge of Pozos. A warrant for the capture of General Núñez and Pedro Villanueva was issued on the 2nd August, 1916, but these two persons were never captured. There was no guard in the town of Pozos to protect its inhabitants and the interests of the mine.

The amount of the claim is £5,000 sterling or a pension of £150 per annum for life. In view of the nature of Mr. Fraser's employment, His Majesty's Government consider this claim to be very reasonable.

The claim, which was filed at the Foreign Office on the 28th June, 1926, did at the time of the murder, and still does, belong solely and absolutely to the claimant. A report of the murder of the claimant's husband was made to His Majesty's Government at the time. On the 4th August, 1916, His Majesty's Minister in Mexico addressed a note on the subject to General Candido Aguilar, Minister of Foreign Relations of the then *de facto* Government of Mexico. No claim for compensation has been filed with the Mexican Government, nor has the claimant ever received compensation from the Mexican Government or from any other source.

The British Government claim on behalf of Mrs. Johanna M. Fraser the sum of £3,000 sterling or a pension of £150 per annum for life as from the 1st August, 1916.

2. The Commission have found proved the facts on which the claim is based. There is also sufficient evidence that the murder was committed by bandits under J. Jesús Núñez and Pedro Villanueva.

3. In order to decide whether Mexico is to be held financially liable for the murder, it is necessary to examine the question as to whether any negligence on the side of the competent authorities has been established.

The Commission have come to the conclusion that this is not the case, because the annexes to the Memorial and the evidence filed by the Mexican Agent show that:

(a) At about six o'clock in the evening after the murder, some fifty Carrancista troops arrived at Mr. Fraser's Hacienda de Beneficio, having been sent by the Commanding Officer at Pozos.

(b) Those troops proceeded in pursuit of the bandits at 5 p.m. on the following evening.

(c) On the 2nd August, 1916, the local tribunal issued a warrant for the capture of the two aforesaid individuals.

(d) On the 24th August, 1916, this warrant was broadcast.

(e) Both bandits were finally killed.

(f) The British Chargé d'affaires in a letter of the 4th August, 1916, expressed to the Mexican Minister of Foreign Relations his appreciation of the activity shown by the Governor of Guanajuato.

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

4. The claim is disallowed.

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