

## MOHLE CASE

DUFFIELD, *Umpire*:

In this claim the Commissioners differ in opinion. The acts upon which it is based occurred during the revolution of General Matos, and the injuries complained of were done by his troops. Under the decision of the umpire in the case of Kummerow, the Government of Venezuela is liable by reason of its admission of liability in the protocol, the Matos revolution being embraced in the present civil war.

The Commissioner for Venezuela, while denying the liability of Venezuela, admits the committing of the injuries, but insists that the values of the property

are exaggerated by the claimant, and contends that if Venezuela is liable it is only for 11,923.72 bolivars, for the reason that the appraisal of values made by the revolutionist officials who took the property can in no wise bind Venezuela and is no evidence of value. But the Commissioner for Germany, while admitting that they do not conclude Venezuela, insists that they are competent evidence of value, and is of the opinion that the full amount claimed should be allowed.

The Commissioner for Venezuela lists the articles taken at what he says are current prices, and is of the opinion that if any award is made it should be on this basis.

The umpire is of the opinion that, perhaps, under the Fennerstein Champagne cases, in the Supreme Court of the United States,<sup>1</sup> current prices are admissible in evidence. But there is, in his opinion, much force in the objection made by the Commissioner for Germany as to their accuracy in the appraisal of such property as is here in question. Moreover, the current prices which the Commissioner for Venezuela mentioned are not verified by price lists or any other evidence.

On the other hand, the umpire is extremely doubtful whether he would be authorized to follow the appraisal made by the revolutionist officials, who are not agents of Venezuela, and not shown to be familiar with the value of any of the property, except, perhaps, the horses. In this uncertainty he deemed it entirely proper to refer to the evidence put in the claim of Van Dissel by the Commissioner for Venezuela, stating the values of property of like character with that the values of which are disputed in this case. The competency of this evidence was not questioned by the Commissioner for Germany in that case.

Upon this basis the claimant will therefore be allowed for his items of damage as follows.

The following items the values of which are undisputed:

	<i>Bolivars</i>
Fence . . . . .	1,200.00
1 saddle horse . . . . .	800.00
Medicine . . . . .	158.00
1 horse . . . . .	180.00
Medicine . . . . .	74.52
Do . . . . .	166.00
Do . . . . .	44.00
Do . . . . .	197.60
Do . . . . .	194.56
	3,014.88

And the following items, the value of which is disputed, but are fixed by the umpire, as follows:

	<i>Bolivars</i>
125 head of cattle, at 63 bolivars . . . . .	7,875.00
9 donkeys, at 40 bolivars . . . . .	360.00
24 head small cattle, at 40 bolivars . . . . .	960.00
10 horses, at 240 bolivars, 2,400 bolivars; less 3 horses returned, 720 bolivars . . . . .	1,680.00
8 head of cattle, at 63 bolivars . . . . .	504.00
1 cow and 1 bull . . . . .	130.00
1 cow . . . . .	60.00
1 head of cattle. . . . .	48.00
	11,617.00

<sup>1</sup> 3 Wall., 70 U.S., p. 145.

Total, 14,631.88 bolivars, with interest at the rate of 3 per cent per annum from July 15, 1903, up to and including December 31, 1903.

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