

## PLANTAGEN GESELLSCHAFT CASE

DUFFIELD, *Umpire*:

This claim is for 387,143.39 marks, and is founded on the alleged injuries to the haciendas of the claimants during the last civil wars. It appears that these haciendas were in the neighborhood of active military operations and the scene of considerable fighting. Part I of the claim in the amount of 369,968 marks and Part II in the amount of 7,354 marks are almost entirely made up of claims for consequential damages — loss of crops already planted, prevention of planting of other crops, inability to protect the growing crops from birds which destroyed them because of the impossibility of working and the frequent drafting of the laborers.

The Commissioners disagree as to the liability of Venezuela for these damages, and the case is governed by the decision of the umpire in the case of Hugo Valentiner No. 12 (see p. 403).

The Commissioner for Germany, however, is of the opinion that there are certain "direct injuries proven, and although their value is not fixed, he leaves it to the umpire for reasons of equity to grant to the claimant an indemnification amounting in round figures to 20,000 bolivars." In the opinion of the umpire there is proof of very considerable injuries to the property of the claimant, for which the umpire would certainly have allowed him damages if he adduced any proof as to the amount of values. In the absence, however, of such proof, notwithstanding the hardship of the case, the umpire sees no legal or legitimate way of arriving at the sum of 20,000 bolivars. There is the testimony, however, of two witnesses, Oropeza and another, as to the destruction of 231,230 4-year-old coffee plants, a fair valuation of which, in the opinion of the umpire, is 20,000 bolivars, and this sum will be allowed the claimant.

Of Part III of the claim, 9,820.45 marks, the Commissioner for Venezuela allows 1,472 marks for property taken from a driver of the claimant company on the January 4, 1903, but denies the liability of Venezuela for the remainder of the part. His reasons therefor are as follows:

That the item of 5,504 marks is only proven by the letter or statement of

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<sup>1</sup> See *supra*, p. 438, and note.

<sup>2</sup> *Supra*, p. 403.

the manager of the hacienda, and that the prices which the claimant places on the animals which he says were lost are in general double their value. The Commissioner for Germany insists that the proof is sufficient, and fixes the value of the property taken upon the basis allowed by the Commission in the claim of Steinworth & Co., No. 55, and other claims, at 3,744 marks.

While the proofs as to these items are very meager, the umpire concurs in the opinion of the Commissioner for Germany and awards the claimant on account thereof 3,744 marks.

That the items for injuries from February 7, 1902, to January 31, 1903, 2,563.90 marks, are not proven, because the receipts purporting to be therefor are not authenticated. He also criticises them because they are stamped with the seal of the Jefatura Civil of Carayaca. In view of the fact that the evidence fully establishes the occupation of the hacienda by both Government forces and revolutionists, and the taking of property therefrom, the umpire is unable to agree with the Commissioner for Venezuela and disregard these receipts as evidence, and the claim will be allowed for the sums named in the receipts, which is the amount claimed.

The entire claim, therefore, is allowed at the sum of 30,098 bolivars, which includes interest up to December 31, 1903.

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<sup>1</sup> *Supra*, p. 369.