

SAMUEL DAVIES (U.S.A.) *v.* UNITED MEXICAN STATES

(April 30, 1929. Pages 282-284.)

The Presiding Commissioner, Dr. Sindballe, for the Commission:

In this case claim in the sum of \$820.00, United States currency, with interest thereon, is made against the United Mexican States by the United States of America on behalf of Samuel Davies, an American citizen. The facts upon which the claim is based are alleged to be as follows:

A partnership, in which the claimant and one John William Vincent had each an undivided one-half interest, and the place of business of which was Douglas, Arizona, had entered into an oral contract with the Sonora Land and Timber Company, Fronteras, State of Sonora, Mexico, for the purpose of cutting wood on the lands of this company. The partnership was to pay to the company the sum of \$1.00, United States currency, per cord for all wood cut under the contract. The wood was imported into the United States and sold there by the partnership. During April, 1917, the partnership had cut and transported to a station now known as Vigia, on the railroad from Agua Prieta to Nacozari, 328 cords of wood. This wood was seized and confiscated by the State of Sonora through its fiscal agent, Jesús O. Cota, who previously had seized the ranch property of the Sonora Land and Timber Company. It is for the wood thus confiscated that compensation is now claimed.

A claim for the alleged full value of the confiscated wood was originally filed by Memorandum in the name of *Samuel Davies and John W. Vincent, a partnership*. However, as the American nationality of Vincent could not be established, the Memorial was filed in the name of Davies and only half the alleged value of the wood is claimed thereby. Counsel for the respondent Government contends that the claim filed by the Memorial is a new claim, and that this claim must be dismissed, as the Memorial was filed after the expiration of the period of time within which, according to the Convention of September 8, 1923, between the United States and Mexico, claims may be presented. The Commission is of the opinion that the claim as now presented must be considered to be in substance a claim reduced in amount to the proportional interest of the partner whose American nationality is proved, and that, therefore, the said contention of Counsel for the respondent Government is untenable.

During oral argument the question arose as to whether or not an allotment such as prescribed by Art. 1 of the Convention of September 8, 1923,

between the United States and Mexico, must be presented by the claimant to the Commission in a case like the present. The Commission deems it unnecessary to consider this question, as it appears that Vincent has agreed to the present claim being presented on behalf of Davies.

That Davies and Vincent were the owners of 328 cords of wood situated at the station of Vigia, and that the wood was taken from them, is admitted by the respondent Government, but, referring to a statement of the Municipal President at Fronteras to the effect that the wood was taken by unknown persons and not confiscated by the authorities, the respondent Government denies that the wood was taken by the fiscal agent of the State of Sonora. However, as the statement of the Municipal President contains no particulars with regard to the taking of the goods, and as there are submitted affidavits of Davies, of Vincent, and of four other persons setting forth detailed statements to the effect that the wood actually was seized by the fiscal agent of the State of Sonora, Jesús O. Cota, the Commission is of the opinion that the confiscation of the wood as alleged by the claimant is sufficiently proven.

It is stated by the Municipal President at Fronteras that the value of the wood at the Station of Vigia was \$2,664.00, Mexican currency. As the estimate of the claimant does not seem exaggerated, the Commission, however, is of the opinion that an award in the amount claimed should be rendered.

Decision

The United Mexican States shall pay to the United States of America on behalf of Samuel Davies \$820 (eight hundred twenty dollars), United States currency, with interest thereon at the rate of six per centum per annum from May 1, 1917, to the date when the last award is rendered by the Commission.
