

FRANK LAGRANGE (U.S.A.) *v.* UNITED MEXICAN STATES*(May 13, 1929. Pages 309-312.)**Commissioner Nielsen, for the Commission:*

Claim in the amount of \$5,472.22, United States currency, is made in this case by the United States of America against the United Mexican States in behalf of Frank LaGrange, the sum claimed being the value, it is stated, of property of the claimant which it is asserted was confiscated by order of M. Chao, a former Governor of the State of Chihuahua.

It is alleged in the Memorial that in December, 1913, the claimant was engaged in business in Ciudad Juarez, State of Chihuahua, Mexico, and that on or about December 18 of that year he ordered the goods in question from Domingo Trueva of that city. It is further alleged that the goods were paid for and were placed in a warehouse for storage pending delivery to LaGrange; that the warehouse was confiscated under order of M. Chao, and that on January 14, 1914, the claimant was informed by Chao that the goods would not be delivered to the claimant, as they were stored in a confiscated house.

In behalf of Mexico it is alleged that as a result of an investigation conducted by the Attorney General of the State of Chihuahua, no proof was found of the transactions underlying the claim. Therefore the allegations of the Memorial are generally denied. It is contended that the Commission has no jurisdiction in the case.

In order to determine the question of jurisdiction it is of course important to determine the precise nature of the claim described in the Memorial. The information furnished to the Commission by each side is unsatisfactory.

The United States has produced a copy of a communication under date of January 14, 1914, addressed by M. Chao to Francisco LaGrange which reads as follows:

“Correspondencia Particular del Gobernador del Estado de Chihuahua,

CHIHUAHUA, *Enero 14 de 1914.*

SR. FRANCISCO LAGRANGE,

Presente.

MUY SEÑOR MÍO: Me permito manifestarle que por orden de este Cuartel General no serán entregadas las mercancías que ampara la factura adjunta No. 8064, por estar confiscada la casa de donde proceden.

Sin otro asunto, soy de Ud. afmo. atto. y S. S.

M. CHAO.

DIVISION DEL NORTE

Cuartel General.”

Whatever may be the precise information which it was intended to convey by this communication, it seems to be certain that there was an interference with the claimant's property in the nature of a confiscation. However, it is not altogether clear whether such interference took place as a consequence of what might be called military activities, or whether it resulted from some action taken by the Governor entirely distinct from any military duties which he may have had. An affidavit made by LaGrange which accompanies the Memorial throws little light on this subject. It is said in this affidavit that the goods in question were confiscated during the incumbency of the Carranza-Villa faction in Mexico at the time when that faction had control of the Government, and that they were confiscated by General M. Chao who was recognized as Governor under that faction.

Mexico has thrown no light on the transactions in question either by testimony of Chao, who it appears died in 1923 or 1924, or the testimony of any one else possessing information regarding the matter. The evidence presented by the Mexican Agency relates to certain proceedings instituted before the Civil Court of First Instance of the District of Bravos, State of Chihuahua, with respect to the claim presented in behalf of LaGrange. From the records of these proceedings it appears that no record of the confiscation of the goods in question was found in the files of the military garrison of Ciudad Juarez or in the files of the office of the Municipal President. It further appears that three persons in Ciudad Juarez were asked certain questions to ascertain whether LaGrange had a business in Ciudad Juarez and whether Domingo Trueva had a business in that city and whether the Government had confiscated a warehouse in which the claimant's goods were stored. The answers given by each of these persons showed that they had no knowledge of any of the matters with respect to which they were questioned.

The objection to the jurisdiction made by Mexico is based on two grounds: (1) that the nationality of the claimant has not been proved, and (2) that, as stated in the Answer, the claim "is one of those claims expressly exempted from its jurisdiction and which, according to Article III of the Special Claims Convention of September 10th, 1923, must be submitted to the exclusive consideration of the Special Claims Commission created under the last mentioned Convention".

The objection with respect to the proof of nationality of the claimant which should have been raised in the Answer was first made in oral argument by counsel for Mexico. It is unnecessary to pass upon it in view of the conclusions of the Commission with respect to the other jurisdictional issue which has been raised. From historical information laid before the Commission it appears to be clear that Chao was an adherent of General Carranza. Evidently as such adherent he had the rank of a General. Doubtless as a so-called Governor he performed certain duties of a civilian character, but it may be assumed that as a supporter of the Carranza movement he was subject to the direction of General Carranza, who, in the early part of 1914, was styled by himself as "First Chief of the Constitutionalist Army". See *Codificación de los Decretos del C. Venustiano Carranza. Primer Jefe del Ejército Constitucionalista Encargado del Poder Ejecutivo de la Unión*. Whatever phraseology may be used to describe the status of General Carranza at that time, it would seem that he must certainly be regarded as having been a revolutionary military leader. The Commission is of the opinion that this claim based on an interference with property in the nature of a confiscation by one of General Carranza's subordinates falls within Article III

of the so-called Special Claims Convention, and that the Commission is therefore constrained to hold that the claim is not within its jurisdiction.

Decision.

The Commission is without jurisdiction in this case.