

CARL OLOF LUNDHOLM (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

*(Decision No. 34, April 28, 1931. Pages 43-44.)*

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The Memorial filed by the British Agent claims compensation for damages suffered by the claimant, Carl Olof Lundholm, a British naturalized subject, to his house at Coyoacan during a battle in February 1915 between the Constitutionalist forces and the Zapatista army, and for the robbery and destruction of the furniture and fittings of the house by Zapatistas, who afterwards took possession of the house.

The Memorial sets out the facts relative to the acquirement of the house and furniture and relates the occurrences giving rise to the claim. In February 1915 the Constitutionalist forces were established on the River Churubusco and a battle was fought between them and the Zapatista army on the ranch "Tasqueña". During the battle the house suffered serious damage, its walls and roof being pierced by shells. The Zapatistas, in order to dislodge the Constitutionalist forces from Coyoacan, took possession of the house. They took away all movables and destroyed the installation of water and light and carried away the iron-work of the doors and windows. The claim was for a total of 17,670 pesos (Mexican gold) arrived at as set out in the Memorial.

2. The claim was partly heard on its merits by the Commission during the term of the Convention, dated the 19th November, 1926, and further hearing was adjourned for the cross-examination of witnesses. This having taken place, also under the Convention of the 19th November, 1926, the claim came up for further and final hearing before the Commission under the Convention dated the 5th December, 1930, as now constituted.

3. The British Agent then stated that he did not desire to argue further the case, because if the damage was caused by Constitutionalist forces, it must be considered as the consequence of a lawful act of war, and if it was caused by Zapatistas, it did not fall within subdivision 4 of Article 3 of the Convention of the 5th December, 1930, as the fighting itself proved that there was no negligence on the part of the Government.

4. The Mexican Agent did not, in these circumstances, address any argument to the Commission on the merits of the claim, but asked the Commission in its decision to classify Zapatistas, the Mexican contention being that these

were not included in any of the subdivisions of Article 3 of the Convention of the 5th December, 1930, the date of the occurrence in this case being subsequent to November 1914.

5. The Commission decide that it is not necessary for the purposes of this case, in view of the statement and admission of the British Agent, to make any classification of Zapatistas and their position, but that it is sufficient to say that they do not see how the British Agent, on the facts of the case, could have taken any other course than he did, and they dismiss the claim under review, making no declaration or classification of the position of Zapatistas.

6. The claim is dismissed accordingly.

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