JANTHA PLANTATION (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(Decision No. 80, July 14, 1931. Pages 232-235.)

---

1. The British Government have joined in one Memorial under the title of the "Jantha Plantation Claims," a group of similar claims, all of them arising out of the same set of facts, and presented on behalf of J. B. Aiton, Frank L. Roberts, John R. Sands, Charles Wieland, Walter C. Aust and Arthur Matthews; the first one being for £4,100, the second for $7,500.00 Mexican gold, the third for $4,000.00 United States currency, the fourth for $2,000.00 Canadian currency, the fifth for $2,000.00 Canadian currency, and the sixth for $4,000.00 Canadian currency.

2. The facts are common to all the claims, and in the Memorial they are set out as follows:

That during the years 1911, 1912, and 1913, Major J. B. Aiton, and Messrs. Frank L. Roberts, John R. Sands, Charles Wieland, Walter C. Aust and Arthur Matthews, purchased from the Jantha Plantation Company, an American concern, sundry tracts of land situated near the town of Macineso, State of Oaxaca.

That the said claimants expended large sums of money on clearing their property and on the cultivation of bananas thereon.

That the said claimants were not resident of Macineso, and that their lands were therefore left under the care of the Alvarado Construction Company, an American concern that developed the lands on behalf of the owners.

That on the 23rd April, 1913, the *Jefe Político* at Tuxtepec informed American nationals living at Macineso that he could not offer them protection and advised them to leave the place.

That on the 26th April, 1914, a company of federal soldiers under the command of Colonel Villanueva and Major Prida ordered the representatives of the Alvarado Construction Company to abandon the lands under their care and to go to Veracruz.

That the Government of Mexico appointed one D. J. García as administrator to take over the lands known as the Jantha Plantation Company, and that a band of armed men under the command of one Luis del Valle took possession of the lands under the care of the Alvarado Construction Company, among which were the properties belonging to the claimants, and forthwith used the bananas and cattle thereon as food for the soldiers.

That the Government of Mexico managed the lands for some time and availed themselves of the products therefrom for their own use. That the said lands were neglected and that they have by now become overgrown with jungle and of no use for cultivation, and that as a result of this the property has become practically worthless.

That the claimants have not been able to regain possession of their properties and that although their representatives were in 1919 allowed to visit the lands, they were not granted permission to take possession of same on behalf of the owners.

3. Attached to the Memorial filed by the British Government (annex 8) and as evidence in support of the facts on which the claims were founded, there were submitted the declarations of Paul Weber, May Crimshawe and Florence Crimshawe, who stated that the facts referred to in the Memorial were true.

4. The claims are for:

(1) Damage sustained by reason of forced abandonment by the claimants' agents.

(2) Confiscation of their properties by the Government of Mexico, in April 1913.

(3) Loss of profits which they had expected to realize, as from the 26th April, 1914.

(4) Depreciation of the properties by reason of lack of care because of their neglected condition, as a consequence of confiscation.

5. The Mexican Agent in his answer contended that the facts on which the claim was based were not correct, and by way of proof of his assertion he attached, as annex 1 to his answer, a copy of the testimony of Fermín Fontañén, Francisco Flores, Leonardo Martínez, Pedro Lavín, and José Roca, who positively denied the confiscation of the claimants' property as also the fact that D. J. García had taken possession of the said properties on behalf of the Government of Mexico.

As annex 2 to this answer, the Mexican Agent submitted a certificate from the Office of the Collector of Taxes of the State of Oaxaca, to show that the properties were very far from having the value ascribed to them, their value, according to the said certificate, being insignificant.

6. The British Agent replied by contending that there was a direct conflict between the evidence annexed to the Memorial and that annexed to the Mexican Agent's answer, but that the official denials of the authorities had not been presented, and that as his evidence had been taken before that of the Mexican Agent it was more likely to be reliable and accurate.

7. The Mexican Agent in his Rejoinder contended that the facts complained of were not correct, on the strength of the documents presented with his Answer. Moreover, he attached to his Rejoinder certain official communications from the Department of Finance, the War Department, and the Government of the State of Oaxaca, the only authorities that could have decreed the confiscations in question, and in them the fact of such taking over or confiscation of the claimants' property was positively denied.

8. The Mexican Agent also filed a Brief, contending that, although the evidence theretofore submitted showed that the facts on which the claims were based were incorrect and the amount claimed from the Government of Mexico unjustified, any losses and damages sustained by the claimant Company would—even accepting the claimant's own version of the facts—have been caused by forces belonging to the régime of Victoriano Huerta, forces which were, under the third paragraph of subdivision 4 of Article III of the Convention, expressly excluded from among those recognized as involving responsibility for the Government of Mexico.

9. The Commission, after having made themselves acquainted with the points upheld by both Agents, and with the evidence submitted by them in support of their arguments, formulate the following considerations:

(1) Confiscation is an act emanating from the public authorities and can only be carried out by means of an express order from the said authorities. The British Government have only, in order to establish the fact of such

confiscation, produced the affidavits of Paul Weber, May Crimshawe and Florence Crimshawe, without having in any way referred to any authentic orders from the authorities.

(2) The Mexican Agent has, in rebuttal of the above evidence, produced official communications from the Departments of War and Finance and from the Governor of the State of Oaxaca, denying the fact of such confiscation and the existence in the National Army of the officers to whom the act was attributed.

(3) The said Mexican Agent has filed the evidence of witnesses, in order to contradict the fact asserted by the British Agent, and his witnesses agreed with the official communications from the above-mentioned authorities, to the effect that no such confiscation had taken place.

10. The Commission do not, in the presence of this conflicting evidence, find sufficient reasons for declaring that confiscation of the claimants' property has been proved.

11. For the above reasons, and without entering upon the task of considering the arguments upheld by the Mexican Agent, the Commission declare that the Government of Great Britain have not established the fact of the confiscation of the claimants' property by the Mexican authorities, and in consequence.

12. The Commission disallow the instant claim.
