

THE BRITISH SHAREHOLDERS OF THE MARIPOSA COMPANY
(GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(Decision No. 103, August 6, 1931. Pages 304-307.)

1. The Memorial describes the claim as one for losses and damages suffered by the Mariposa Company on its ranch in the State of Coahuila during the period from the 1st May, 1915, to the 1st May, 1920.

The Mariposa Company was incorporated on the 8th April, 1909, under the laws of the State of Arizona, U.S.A. The Company has therefore the status of a citizen of the United States of America, and in the first place the Company submitted a claim to the United States Agency, General and Special Claims Commissions, United States and Mexico. This Agency, in a letter dated the 19th August, 1925, enquired whether there was an American interest of any kind in the Mariposa Company. It appears that the Company were unable to point to any American interest, and in a letter dated the 17th August, 1926, the Agency definitely refused to file this claim on the grounds that all the stockholders of the Company are British subjects. A list of the shareholders in this Company is given in an affidavit made by Winchester Kelso, junior, on the 11th June, 1928, before Kelso Stanfield, notary public, Bexar County, Texas. A list of these shareholders, giving the proportions of their respective interests in this Company, is given in an affidavit made by Winchester Kelso, junior, on the 11th June, 1928, before the above-mentioned Kelso Stanfield.

The above-mentioned shareholders are all British subjects.

The Company has allotted to each of its shareholders a proportional part of its losses and damages forming the subject of this claim. This allotment is contained in an affidavit made by the Company's president, D. S. McKellar, on the 20th June, 1927, before Royal W. King, notary public in and for

Bexar County, Texas, and attested by the Company's Secretary, Winchester Kelso, junior.

The facts are set out in an affidavit made by Winchester Kelso, junior, on the 11th June, 1928, before Kelso Stanfield, notary public in and for Bexar County, Texas, and in an affidavit made by Luis Hernandez on the 1st July, 1925, before Drew Linard, consul of the United States of America, at Piedras Negras, Mexico. Winchester Kelso, junior, has made this statement of claim as Attorney for all the British shareholders in this Company. Proof of Mr. Kelso's right to claim on behalf of these shareholders is given in a Power of Attorney executed by D. S. McKellar, on the 8th June, 1928, and in a Substitution of Power Executed by D. S. McKellar, the Attorney for the remaining members of the Company, in favour of Winchester Kelso, junior. The Powers of Attorney executed by the remaining shareholders in favour of D. S. McKellar are also given.

The Mariposa Company are the owners of the Mariposa ranch situated in the State of Coahuila. On or about the 1st May, 1915, they were engaged in raising stock on this ranch. On the 14th May, 1915, the Jefe de las Armas at Muzquiz demanded by telephone four head of cattle from the ranch foreman. Three cows of the value of 168 pesos were delivered to this Jefe at Muzquiz. On the 1st June, 1915, the same officer requested one stag and six cows, which were delivered to him. On the 9th June in the same year four cows were delivered to the Jefe. Again on the 3rd July one stag and fourteen cows were delivered to him, and on the 30th July, 1915, twenty cows, one of which died before delivery, were handed to the Jefe. Copies of the receipts given by this officer are attached to the affidavit of the ranch foreman. The originals of these receipts are available for inspection if required. On the 18th August, 1915, the Colonel in command of Villista troops at Muzquiz ordered twenty head of cattle from this ranch to be delivered at Muzquiz on the 20th August. These cattle were delivered by the ranch foreman and some of his assistants. On the 20th June, 1916, General Zuazua, in command of Government troops, asked for the loan of five horses, worth 300 pesos. The ranch foreman delivered these five horses to Major Nicanor, but the horses were never returned to the ranch. On the 20th December, 1917, Colonel Pruneda, of the Federal Army, demanded corn, cattle and horses from this ranch, and accordingly 471 kilos of corn and four horses were handed to this officer. On the 27th December, 1917, General Pruneda ordered three more horses from this ranch. In the following cases no receipts were obtainable. On the 16th July, 1917, soldiers under the command of General Pruneda took three mules and three horses. On the 23rd December, 1917, General Pruneda demanded three more horses. On the 24th March, 1918, soldiers under the command of Lieutenant-Colonel Margis Cadena took two horses. On the 10th April, 1918, Lieutenant-Colonel Cadena, Sergeant Jesús Rentería and six soldiers visited the ranch and carried off four horses, one mule, provisions and corn. These soldiers belonged to the Federal forces. On the 25th January, 1919, forces under the command of General F. Villa took charge of the ranch, and on the next day they left with forty-six horses, three mules, saddlery, provisions, blankets and bedding. On the 10th December, 1919, the Villistas again raided this ranch and took the staff of the ranch prisoners. They also took twenty-one horses, four saddles, blankets, provisions and bedding. The staff of the ranch, with the exception of the manager of Las Racias Ranch, a Mr. Hugo, were released on the next day at Muzquiz.

The amount of the claim is 14,186 pesos Mexican. The detailed summary of the Company's losses, given in Exhibit "A" to Annex 2, totals 14,291.96 pesos. The discrepancy is explained in an affidavit made by Winchester Kelso,

junior, on the 8th August, 1928. It appears that the claim as originally drawn up included some losses which occurred in the year 1921, and these losses were excluded in the final draft of the claim, but by error the original total of 14,291.96 pesos remained. The correct amount is as stated above, 14,186 pesos Mexican. The ranch foreman, Luis Hernandez, states in his affidavit that the prices charged for the stock and other property taken by revolutionary and Federal forces are fair and reasonable. In an affidavit made by Winchester Kelso, junior, on the 27th June, 1927, before Royal W. King, notary public in and for Bexar County, Texas, it is stated that the amount of the claim is based on the actual price realized from sales of such property during the period of these losses.

No claim for these losses has ever been presented to the Mexican Government, and no compensation, either in whole or in part, has ever been received by the Company. The claim belonged at the time solely and absolutely to the Mariposa Company and has now been allotted solely and absolutely to the individual British shareholders.

The British Government claim on behalf of the British shareholders of the Mariposa Company the sum of 14,186 pesos Mexican.

2. The Commission answer the question whether the shareholders are entitled to claim and whether they possess British nationality, in the affirmative. They are of opinion that the allotments have been made in due form.

3. The Commission have found evidence of part of the alleged losses and they have come to the conclusion that the losses, as far as established, have been caused either by Constitutionalists or by Villistas.

As regards the Constitutionalists, Mexico must be held financially responsible, according to subdivision 2 of Article 3 of the Convention, and as regards the Villistas, the Commission have taken into account the fact that, in so far as the taking of the cattle is concerned, that where this is not covered by subdivision 2 of Article 3 of the Convention, it was to a large extent confiscated in order to supply the population of the town of Muzquiz with meat. It seems a postulate of equity, to award compensation for cattle thus exacted.

4. The Commission, acting along these lines, feel at liberty to grant compensation for 80 cows, five horses and 471 kilogrammes of corn. The amounts claimed for these items have, in their opinion, been sufficiently proved.

5. The Commission decide that the Government of the United Mexican States is obligated to pay to the British Government, on behalf of the British Shareholders of the Mariposa Company, the sum of \$4,877.10 (four thousand, eight hundred seventy-seven pesos and ten centavos) Mexican gold or an equivalent amount in gold.
