

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Henry Payne (Great Britain) v. United Mexican States

22 May 1931

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Claim, the Agent submitted that the detailed nature of the schedule presented by Mr. Ward carried conviction, and that Mr. Romano confirmed the estimate. The Agent thought the amount fair and reasonable.

4. The Commission feel at liberty to accept the declaration of Mr. José Bernot Romano as sufficient proof of the facts. The deponent can be considered as an independent witness, who, at the time mentioned in the Memorial, was already in the service of the *Cía. de Fábricas de Papel de San Rafael y Anexas*, who resided on the premises and who often visited the house of the claimant. The Commission fail to see why his declaration should not be deserving of confidence.

5. There is just as little reason why Mr. Romano's statement as to the character of the forces who looted the mill and the house of the manager should not be accepted. He is a Mexican citizen, who lived at the place, and he may be supposed to have been able to distinguish between the different forces then in arms. Apart from that, it is of general knowledge that the San Rafael Paper Mills are situated in the immediate neighbourhood of the region where the Zapata movement originated and where up to the present day many ruined haciendas bear witness to their activities.

6. It is an equally known fact that the Zapatistas in August 1914 formed part of the Constitutionalist Army. This is also allowed in a brief filed by the Mexican Agent on the 7th April, 1931. As there is no doubt that the Constitutionalist Army was to be considered as a revolutionary force, which after the triumph of its cause established a Government, first *de facto*, and later *de jure*, the losses caused by this Army, and by the groups forming part of it, are covered by the Convention (Article 3, subdivision 2), even if some of the groups later separated and followed another cause.

The Commission, while satisfied as to the facts on which the claim is based, holds that the liability for the financial consequences of them must rest with Mexico.

7. The amount claimed has been confirmed by Mr. Romano, who was in a position to know the house and its contents, and neither the schedule nor the estimate seem exaggerated for furniture and movable property owned by the manager of an important industry, residing in a house with two living rooms, three bedrooms, hall and nursery.

8. The Commission decide that the Government of the United Mexican States shall pay to the British Government, on behalf of Mr. Augustin Melliar Ward, 4,000 (four thousand) pesos, Mexican national gold.

The Mexican Commissioner did not accept as an expert's proof, the testimony of Señor Romano in connexion with the value of the articles disappeared; hence the decision was by majority on this point.

HENRY PAYNE (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

(*Decision No. 50, May 22, 1931. Pages 110-111.*)

AFFIDAVITS AS EVIDENCE.—NECESSITY OF CORROBORATING EVIDENCE. Claim alleged to arise under same circumstances as those of *Mexico City Bombardment Claims* (*supra*, Decision No. 12), but with fact of loss resting solely on claimant's affidavit, *disallowed*.

(*Text of decision omitted.*)
