# GERVASE SCROPE (GREAT BRITAIN) *v.* UNITED MEXICAN STATES

*(Decision No. 93, August 3, 1931. Pages 269-272.)*

1. This is a claim for losses and damages caused by the looting of the Pensamiento Ranch, Zaragoza, in the district of Río Grande, Coahuila, in February 1915 by a party of Carrancistas under the command of General Vicente Dávila.

According to the Memorial the Pensamiento Ranch, now the property of the wife of Mr. Gervase Scrope, belonged formerly to her father, Mr. John O'Sullivan, who died in Saltillo on the 4th October, 1881. In the month of February 1915 a large party of revolutionaries known as Carrancistas, under the command of General Vicente Dávila, visited the Pensamiento Ranch. These revolutionaries ransacked the ranch, taking from the house all the drawing-room, dining-room and kitchen furniture, clothing, mattresses, carpets, pictures, wardrobes, ornaments, mirrors, and everything that could be carried away. Articles of furniture which were too bulky to carry away were broken in pieces. Among the things taken from the ranch were a gun, two rifles, harness, saddles, bridles, a buggy and ten horses. These losses are verified by the testimony of Mr. Gil Martínez and Mr. Candelario Salazar, which is recorded in the deposition drawn up by the notary public, Manuel Galindo Barrera.

The amount of the claim is 10,000 pesos Mexican. This sum is the considered estimate made by Mr. Martínez and Mr. Salazar of the value of the articles taken away or destroyed. Included in this total is the sum of 300 pesos, the value of the buggy, and the sum of 600 pesos, the value of ten horses.

Mr. Scrope reported his losses to His Majesty's Government at the time, and on the 6th April, 1916, he filed this claim at His Majesty's Consulate-General in Mexico City. The claim did at the time, and still does, belong solely and absolutely to the claimant's wife. No claim has been filed with the Mexican Government, nor has the claimant received compensation from the Mexican Government nor any other source.

The British Government claim on behalf of Mr. Gervase Scrope the sum of 10,000 pesos Mexican.

2. On the 20th May, 1931, the British Agent filed a motion in which he asked leave to amend this claim by substituting as the claimant Juanita Francisca Scrope, the wife of Gervase Scrope. On the 2nd June, 1931, the said Agent filed a letter from Gervase Scrope, in which he stated that, although the ranch property belonged to his wife, he had himself built the house and that the personal property in respect of which the claim was made, was his own.

The Mexican Agent opposed the amending of the claim. He argued that the claim would, if the amendment were allowed, be transformed into a new one, presented after the period provided in Article 7 of the Convention. He also based his objection upon article 10 of the Rules of Procedure, because the new claimant, on whose behalf his colleague now wished to act, had not signed the Memorial nor a statement of the claim. It had not, therefore, been shown that the new claimant had agreed to the filing of the claim.

3. As regards the facts, the Mexican Agent filed the testimony of three witnesses, Carlos Torres, Silverio Gómez and Francisco Gómez, who deposed in May 1929, declaring that at the time mentioned in the Memorial, Government troops visited the district, but did no harm to anyone. The same witnesses asserted that they had never heard that anything had been destroyed in Mr. Scrope's house, and they considered themselves in a position to give evidence, because, at that time, they lived at a distance of about one kilometre from the Pensamiento Ranch and were therefore familiar with what happened on that property.

4. The British Agent pointed to the fact that the evidence produced by him was the contemporary testimony of two eye-witnesses, of whom one had been present when the looting took place and the other had arrived upon the spot immediately afterwards. The Agent submitted that this evidence possessed more value than the deposition of the witnesses examined by the other side, fourteen years after the events.

5. The Mexican Agent, while not denying that the General Vicente Dávila mentioned in the Memorial was a Carrancista leader, was confident that the Commission would not, in the face of the wide divergence between the evidence produced by him and that presented by his colleague, shut their eyes to the fact that both the witnesses, who had deposed in favour of the claimant, were in the latter's service. The Agent, furthermore, pointed out that no particulars of the objects stolen or destroyed had been produced and that no reliable proof of their value was available.

6. The Commission, confronted with conflicting evidence, do not hesitate to accept as the more valuable the deposition of the witnesses Martínez and Salazar. That those witnesses were the servants of the claimant has not been established, but even if they were, this would not be a sufficient reason to reject utterly the testimony of persons who had first-hand knowledge of the events and who had been heard under affirmation a few months after they occurred. The account given by them makes more impression than the purely negative assertions of persons who lived a kilometre away and who were, after fourteen years had elapsed, asked to declare what they thought they remembered.

7. As it is common ground between the Agents that the troops that visited the Ranch belonged to Constitutionalist forces, the Commission deem that the acts are covered by subdivision 2 of Article 3 of the Convention.

As regards the extent of the looting and destruction and the amount of the value, the Commission have not found any specific details of the losses. Mr.

Scrope claims 10,000 pesos, and his witnesses declare that the value cannot, in their opinion, have been less.

In the view of the Commission these indications are vague and not entirely convincing. It does not seem likely that the witnesses were in a position to estimate, within a reasonable degree of precision, the value of the furniture in Mr. Scrope's house. For this reason the Commission cannot accept the claimed amount as proved to its full extent.

8. The Commission do not see the necessity of amending the claim by substituting as claimant the wife of Mr. Gervase Scrope, the latter having declared that, although the estate belonged to his wife, it was he who owned the property in respect of which the claim was made. While it seems irrelevant to enter into a further investigation of the question as to which of the two, the husband or the wife was the owner of the various articles, it can be regarded as sufficient to exclude the possibility of their both claiming for the same losses.

9. The Commission decide that the Government of the United Mexican States is obliged to pay to the British Government, on behalf of Mr. and Mrs. Gervase Scrope, the sum of five thousand (5,000) pesos, Mexican gold, or an equivalent amount in gold provided that the receipts for this payment be signed by both of them, or by the survivor.