

Federal Court. The written cases were presented January 31, 1920, and the counter cases, January 26, 1921. The court met at The Hague on October 3, 1921.

In this case Dreyfus Brothers & Company had obtained by a contract of August 17, 1869 from the State of Peru two million tons of guano with the privilege of monopoly sale in the markets of Europe and its colonies. The company had bound themselves in advance by the payment of certain sums. Ten years after the contract the dictator, Piérola, seized the Government of Peru. There were many disputes as to outstanding Peruvian obligations. The Dreyfus Company wrote to Piérola that they were willing to entrust "to him the decision of the questions in dispute and that they accepted his decision in advance." He fixed the balance due the company on June 30, 1880 at £3,214,388, 11s. 5d. In 1881, Piérola's government might be said to be generally recognized. Later, however, it was overturned and in 1886 a Peruvian law declared "all the internal acts of the government performed by Nicolas de Piérola null."

The award of the Court of Arbitration was, subject to certain deductions for payments already made, etc., in favor of the French claimant. The award does not allow capitalization of interest, but only simple interest.

This award supports previous decisions of the Hague Court of Arbitration in some respects, as may be seen by reference to the case of the United States and Venezuela in the Oronoco Steamship Company in 1910 and to the case of Italy and Peru in the claims of the Canevaro Brothers in 1912. The award also reaffirms the principle repeatedly supported by the court that the responsibilities of the State are not divested by a mere change in the personnel of the government, a principle that is necessary for the maintenance of stability in international relations.

In 1910 France and Peru had agreed to submit to arbitration the claims of French creditors presented by the *Banque de Paris et des Pays-Bas* and it is from a sum of twenty-five million francs that the claims involved in this award are to be paid by a pro rata adjustment.

Possibly this award may be regarded as an illustration of the application of Hague Convention II of 1907 embodying the Drago Doctrine.

GEORGE GRAFTON WILSON.

REPORT OF THE INTERNATIONAL COMMISSION OF INQUIRY IN THE LOSS OF THE DUTCH STEAMER TUBANTIA

Under the convention of March 30, 1921, Germany and Holland agreed to refer the question of the loss of the Netherlands steamer *Tubantia*, to a Commission of Inquiry. This commission consisted of Mr. Hoffmann, former member of the Swiss Federal Council, Rear Admiral Surie of the Dutch Navy, Captain Ravn of Denmark, Captain Unger of Sweden, and Captain Gayer of Germany.

The *Tubantia* was sunk March 16, 1916, by a torpedo. The torpedo was identified as German torpedo No. 2033. The sinking had led to much correspondence between Holland and Germany, and finally a commission of inquiry was agreed upon. The torpedo was from U-boat 13. The Germans maintained that this torpedo had been launched at a British vessel on March 6, 1916 at 4:43 P.M., and that through defects in the mechanism or for other reasons it may have remained afloat for ten days till struck by the *Tubantia*.

The commission admitted evidence that the wake of a moving torpedo was seen just before the *Tubantia* was struck, that parts of Torpedo No. 2033 belonging to U-boat 13 were found in the boats of the *Tubantia*, that the log-book of the U-boat does not give authentic data as to its location at the time of the sinking of the *Tubantia*, that it was not impossible that the *Tubantia* might have been sunk by a floating torpedo, but the conviction of the commission is "that the *Tubantia* was sunk on March 16, 1916, by the explosion of a torpedo launched by a German submarine. The question of the determining whether the torpedoing took place knowingly or as the result of an error of the commander of the submarine must remain in suspense."

Thus the responsibility is placed upon the German submarine, as was contended by Holland at the beginning, and this conclusion of the Commission of Inquiry rendered on February 27, 1922, puts an end to a longstanding controversy.

GEORGE GRAFTON WILSON.

INTERNATIONAL RESPONSIBILITY IN HAITI AND SANTO DOMINGO

The grave problem of international responsibility is most vividly presented in the prolonged intervention of the United States in the affairs of Haiti and Santo Domingo. "A stain has attached to our national honor, which, unless speedily expunged, will become an indelible blot," according to the report of twenty-four American lawyers of repute issued under the auspices of The Foreign Policy Association of New York City.

The facts concerning this situation may be ascertained by consulting the reports of the "Hearings before a Select Committee on Haiti and Santo Domingo, United States Senate." This special committee of the Senate conducted a most thorough and fair investigation in these countries, where natives and foreigners alike were given every possible opportunity to present their testimony. Part Four of these reports embodies a special report by Professor Carl Kelsey of the University of Pennsylvania, who spent several months in these Republics making an independent impartial investigation of great value. Mr. Lansing, former Secretary of State, under date of May 4, 1922, addressed to Hon. Medill McCormick, Chairman of the Select Committee on Haiti and Santo Domingo, a letter giving most important diplomatic information concerning the grounds for intervention.¹ This JOURNAL

¹ See Congressional Record, Vol. 62, No. 122, page 7081.