

CHRISTERN & CO. CASE

DUFFIELD, Umpire:

The claimant asks the sum of 21,256.12 bolivars. This sum is made up of 2,800 bolivars for cattle taken by the Government, 7,996.71 bolivars for war duties, so called, being an increase of 30 per cent of the previous customs duties imposed by a decree of the National Government dated the 16th of February, 1903, and 10,459.41 bolivars for a debt of the State of Zulia.

The Commissioners disagree as the liability of Venezuela for the first and third items, but agree to the disallowance of the second item.

The umpire is of the opinion that the proofs do not make out a case of vested right in the claimants under the customs law which they count upon, and that the decision of the Commissioners in respect of this item is correct.

The Commissioner does not dispute the fact or the value of the cattle taken by the Government of Venezuela, but he claims that Venezuela is discharged from liability because of a novation between the claimants and the State of Zulia. Granting this premise, the umpire is of the opinion that the Government of Venezuela is still liable for the claim. His reasons for this conclusion are stated in full in the case of Beckman.¹

The decision in that case also decides the liability of Venezuela for the loan to the State of Zulia. The Commissioner for Germany, however, allows the claimants the full amount of this item of their claim, 10,459.41 bolivars, with the usual interest. This amount includes interest at 1 per cent a month, compounded with yearly rests, and increases the original amount of the item thereby 4,589.37 bolivars. The umpire is unable to concur in this finding. He does not find any warrant or authority in the proofs for compounding interest. Neither do the proofs show that under the agreement made on the 14th of February, 1900, between the representatives of the government of Zulia and the parties who made the war loan for the purpose of adjusting the amount due, of which the claimants' share was 11,625.04 bolivars, there was any agreement for any rate of interest on the amount then agreed upon. There is also an entire absence of proof as to the rate of interest which the original loan was to bear. It is too clear to need argument that if no rate of interest is agreed upon by the parties, only the legal rate can be allowed. This rate in Venezuela is 3 per cent per annum. Instead, therefore, of allowing the sum named by the Commissioner for Germany, the item is allowed at the sum of 6,083.22 bolivars, being the original amount of loan, 11,254.04 bolivars, with interest at 3 per cent from February 14, 1900, to December 31, 1903, less the payments made thereon and interest on those payments.

For the same reasons the umpire concurs in the decision of the Commissioner for Germany as to the first item, and awards therefor the sum of 2,800 bolivars, with interest from the date of the presentation of the claim, August 3, 1903, up to and including December 31, 1903. Total amount awarded claimants, 8,917.74 bolivars.