

CORCUERA CASE

GUTIERREZ-OTERO, *Umpire* :

In record No. 120, which contains the claim of the Spanish subject Gen. Leonardo Corcuera, in favor of whom the payment of 2,201.96 bolivars is demanded, in accordance with an order recognizing and ordering him paid this debt by the minister of war, issued on February 18, 1898, a disagreement between the commissioners has arisen, and the case has been referred to the decision of the umpire.

The claimant presents the order referred to, and, moreover, a confidential note of the minister of foreign relations dated May 24, 1898, in which it is announced to the Spanish minister that the President of the Republic, lamenting that immediate payment of the order can not be made, has decided to do it in monthly installments of 500 bolivars, which would begin to be paid in the following June. Payment, however, has not been made in any way, and for that reason Corcuera has made a claim before this Commission.

The Commissioner of Venezuela is of opinion that the claim can not be admitted, and that no jurisdiction over it can be taken, because the claim is prior in date to February 25, 1898, when, in accordance with the convention of June 21 following, all Spanish claims then pending were canceled.

The Spanish Commissioner holds that Corcuera has a right to enforce his credit.

The umpire considers:

1. That with respect to the existence and legitimacy of the amount of the debt there is no doubt, because the claimant possesses an official document of the minister of war which acknowledges and orders this debt of the Government of Venezuela to be paid, the origin of which, moreover, is explained in detail, which shows that it arose because of military service furnished, which Corcuera performed by order of the minister of that department.

2. That this recognition and order were of February 18, 1898, and consequently constituted the debt from then on as a portion of the public debt of Venezuela and an asset which had become the property of Corcuera; it is not comprised among the credits canceled according to agreement of June 21 of the same year, because said credits were only the pending claimants, which

were ordered to be paid by a stipulated sum. This debt being of such a nature, it was by no means included among pending reclamations.

3. That this correct understanding of the agreement of June 21, 1898, is set forth in the text thereof, because it appears therein that for the renunciation on the part of Spain to the recovery and payment of another credit existing and recognized, as was that of the installments of the Spanish debt which were not recovered during eleven months, running from May, 1892, to April, 1893, an express stipulation was made, and the cancellation of the other pending reclamations until February 25 was not sufficient to include it.

With respect to the debt due Corcuera, no renunciation existed, as it was indispensable in order that it should be excluded from his property.

4. Besides, on May 18 it was already known that pending claims would be canceled, because it was thus agreed in the convention of December 20, 1897, and it was also announced in the judgment of February 25 following, rendered by the commissioners charged with the settlement of said claims, both of which documents served as premises for the agreement of June 21, which did no more than refer to such acts; and, notwithstanding this undeniable knowledge of the facts, on said 18th day of May the Government agreed, and so communicated to the Spanish legation, that it would pay the debt of Corcuera by monthly installments of 500 bolivars.

Because of all the foregoing, and the umpire also making it known that, although the claimant rendered military service to Venezuela, he did so with the permission of his Government, and therefore preserved his nationality, decides that the claim of the Spanish subject Leonardo Corcuera falls within the jurisdiction of this Commission and must be allowed for the sum of 2,201.96 bolivars, and that, therefore, the Government of the United States of Venezuela should pay a like sum to His Majesty the King of Spain for the services of this subject.
