

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

Brewer, Moller and Co. Case

1903

VOLUME X p. 423



NATIONS UNIES - UNITED NATIONS
Copyright (c) 2006

proofs would be May, 1903, and as it also appears in this case that the injuries and seizure of property continued into that month, the case does not show, in the opinion of the umpire, an unreasonable delay on the part of the claimant.

In accordance with these conclusions, the claim will be admitted for the consideration and such disposition as the proof may warrant.

BREWER, MOLLER & CO. CASE ¹

Taxes apparently legally levied and paid without protest can not be recovered

DUFFIELD. *Umpire* :

The claimants ask to be allowed the sum of 20,283.20 marks which they have paid on account of taxes assessed against them by the municipality of San Cristóbal. They introduce in evidence a resolution of the municipal council of the district, dated the 28th day of September, 1902. This resolution recites that in the exercise of their authority under article 32 of the law providing for taxation for municipal purposes they have assessed the warehouses of the first class the sum of 3,000 bolivars every three months, and directs the junta clasificadora — board of assessors — to make the proper assessment and classification. Under this municipal action the claimants paid the sum above mentioned. They now seek to recover it from the Republic of Venezuela.

The Commissioners disagree as to the liability of Venezuela.

The umpire is unable to see any ground whatever on which to sustain this claim. The uniform presumption of the regularity and validity of all acts of public officials applies to this case, and there is not the slightest evidence or attempt to prove that these taxes were illegally levied. There is a statement in the expediente that only warehouses owned by Germans fell under the operation of this law. If it were shown that this tax was specially levied upon Germans owning warehouses, because they were Germans, or that for any other reason they were unlawfully classified, the allegation might need further consideration; but it so clearly appears that the tax is a general one, and that the classification is made upon a basis of the values of property, that it excludes any such inference. Moreover, the claimants do not appear to have raised any objection to the classification, but paid the taxes voluntarily. It is a settled law that the voluntary payment of taxes purporting to be levied under a valid law waives all irregularities in the assessment. It is very doubtful if the Republic of Venezuela could under any circumstances be made liable to the amount of irregular or illegal taxes collected by one of the municipal districts. But it is not necessary to decide this, as upon the whole case as made there is an absolute want of equity in the claim, even as against the municipal district of San Cristóbal.

It results that the claim must be wholly disallowed.

CHRISTERN & CO. CASE

Beckman case affirmed (see p. 598).

In the absence of specified rate of interest only legal rate recoverable. Compound interest refused.

¹ The cases of Adolph Noack and Steinworth & Co. were also disallowed for the reasons given in the following opinion.