

Should the Government of the United States, either by its neglect in pressing a claim against the foreign government or by extinguishing it as an equivalent for concessions from such government, impair the claimant's rights, it is bound to duly compensate such claimant. *Id.*, sec. 220, vol. 2, p. 566.

On a careful review of the history of this claim from its origin to this day, enlightened by study and reflection, fortified in principle, and controlled by reason, responsive to his conscientious conception of duty, the judgment of the umpire is clear and positive that the compromise arranged between the honorable Governments February 24, 1891, followed by the award of the honorable President of the Swiss Federation, December 15, 1896, were, "acting together," a complete, final, and conclusive disposition of the entire controversy on behalf of M. Antoine Fabiani. Therefore the claim presented before this tribunal, and, on disagreement of the honorable commissioners, coming to the umpire, and there entitled "Antoine Fabiani No. 4," is disallowed, and the award will be prepared accordingly.

NORTHFIELD, *July 31, 1905.*

EXHIBIT IN FABIANI CASE — AWARD UNDER CONVENTION OF 1891

(Exhibit not reproduced. For the original text of the award under Convention of 1891 see Moore's *History and Digest of International Arbitrations*, Vol. V, pp. 4878-4915.)

PIERI DOMINIQUE & Co. CASE ¹

Prevention by the chief of the custom-house at Carúpano of the beneficial use of the tramway enterprise by the claimant was without right and the injuries resulting are properly chargeable to the respondent Government.

Suspension of the tramway traffic by order of the municipal council of Carúpano is equally without right, and the injuries resulting are properly chargeable to the respondent Government through this municipal division thereof.

Suspension of the tramway traffic by order of the municipal council of Carúpano that the private aqueduct company might use its streets to lay the pipe lines of the company whereby serious injury resulted to the claimant must be met with a proper recompense by the city and is here properly chargeable to the claimant Government through and because of said municipality.

¹ EXTRACT FROM THE MINUTES OF THE SITTING OF MAY 12, 1903

The arbitrators proceeded then to the examination of the claim presented by Messrs. Pieri and Nasica, of which the different parties are the object of the following decisions:

The claim of Mr. Nasica, amounting to 1,500,000 bolivars, is rejected by the commission; the claim of the Messrs. Pieri & Co., amounting on the one hand to 3,730,000 bolivars and on the other for acts posterior to May 23, 1899, to 280,400 bolivars, is accepted in its *ensemble* for 600,000 bolivars by M. de Peretti.

The French arbitrator considers that the continual hindrances brought by the municipal authorities of Carúpano to the exploitation of the line of tramways have rendered the latter so difficult that the rescission of the contract ought to be pronounced. In exchange for the indemnity which he demands for the concessionary the city of Carúpano will remain in possession of the line, of the depot, and of the cars which constitute the actual material existing.

M. de Peretti adds that he has been able during his trip to Carúpano to prove that the last war had completely stopped the exploitation; the line, of which the rails have been torn up in several places, is cut in two by four barricades; the depot, which has served as a military hospital, is partly demolished and the cars have almost all been put out of service.

(Continued on p. 140.)