

# **REPORTS OF INTERNATIONAL ARBITRAL AWARDS**

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## **RECUEIL DES SENTENCES ARBITRALES**

**Juan Manzo (Panama) v. U.S**

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entertain claims arisen after signature of Claims Convention, July 28, 1926: reference to Walter A. Noyes award, p. 308 *supra*.

**COLLISION OF VESSELS IN GULF OF PANAMA.—APPLICABLE LAW: INTERNATIONAL RULES OF NAVIGATION.—UNLAWFUL CHANGE OF COURSE.** Collision on July 10, 1931, in Gulf of Panama, between United States destroyer *Fulton* and sloop *Estrella Marina*. *Held* that collision due to change of course by *Estrella Marina* unlawful under International Rules of Navigation.

*Cross-references:* Annual Digest, 1933-1934, pp. 480-481; Comisión General de Reclamaciones entre Panamá y Estados Unidos de América, Reclamación de la República de Panamá en su propio nombre y en representación de Francisco y Gregorio Castañeda y José de León R., Registro No. 20. (Publicación Oficial, Panamá, 1934.)

*Bibliography:* Hunt, Report, p. 677, and "The United States-Panama General Claims Commission", Am. J. Int. Law, vol. 28 (1934), pp. 71-72; Friede, "Die Entscheidungen . . .", Z.a.ö.R.u.V., Band V (1935), pp. 453, 465; Annual Digest, 1933-1934, p. 481.

This is a claim by the owners of the sloop *Estrella Marina* for the damages which they suffered in a collision between that vessel and the U.S. destroyer *Fulton*. The collision occurred in the Gulf of Panama near Pacheca Island before daylight in the early morning of July 10th, 1931. On the grounds stated in the case of Walter E. Noyes (Registry No. 5) the Commission holds that it has jurisdiction to decide upon this claim. The evidence shows that the *Fulton* was keeping an adequate look-out and that 13 minutes before the collision she sighted a yellow light carried by the sloop. This light as seen from the *Fulton* seemed to be passing to starboard. The *Fulton* changed her course somewhat to port to give a wider clearance when the approaching light suddenly changed direction and a collision occurred. Testimony from the crew of the sloop shows that she changed course sharply to starboard just before the collision, that she was keeping no regular watch and that she did not make out the sailing lights of the destroyer. The testimony of the sloop's captain also indicates that the port light of the sloop was not burning. It is the opinion of the Commission that the collision was due not to any negligence on the part of the *Fulton*, but to an *unlawful* change of course by the *Estrella Marina* just before the collision (International Rules of Navigation, arts. 20, 21).

#### *Decision*

The Commission decides that the claim must be dismissed.

### JUAN MANZO (PANAMA) *v.* UNITED STATES

(May 26, 1933. Pages 693-694.)

**LABOUR ACCIDENT, NEGLIGENCE OF EMPLOYER.—APPLICABLE LAW: CLAIMS CONVENTION.—COMPENSATION: FACTORS.** Labour accident in 1905 to youthful water carrier allowed by United States agent to oil heavy machinery in motion. *Held* that allowing him to do so was equivalent to employing him therefore, and that employing him to that end was negligence *per se*. *Held* also that case governed neither by Panamanian, nor by United States law, but by Claims Convention, July 28, 1926, under article I of which United States responsible. Amount of damages: seriousness of injury, delay of compensation taken into account.

*Cross-references:* Annual Digest, 1933-1934, pp. 481-482; Comisión General de Reclamaciones entre Panamá y Estados Unidos de América, Reclamación de la República de Panamá en su propio nombre y representación de Juan Manzo, Registro No. 21. (Publicación Oficial, Panamá, 1934.)

*Bibliography:* Hunt, Report, pp. 695-696, and "The United States-Panama General Claims Commission", Am. J. Int. Law, vol. 28 (1934), p. 71; Borchard, "The United States-Panama Claims Arbitration", Am. J. Int. Law, vol. 29 (1935), p. 101; Friede, "*Die Entscheidungen . . .*", Z.a.ö.R.u.V., Band V (1935), pp. 462-463; Annual Digest, 1933-1934, pp. 482-483.

In 1905 Juan Manzo, then a boy between 10 and 13 years of age, was working as a water carrier for the Municipal Engineering Division of the Isthmian Canal Commission. The testimony for both parties is in agreement that Manzo was regularly allowed by his superiors to oil the sheaves, through which ran a cable used for hoisting material to a reservoir at Ancon, Canal Zone. It is the opinion of the Commission that the practice of allowing Manzo to oil the sheaves was equivalent to directing or employing him to do so, and that it was negligence *per se* to employ so young a child as an oiler of heavy machinery in motion.

On September 4, 1905, Manzo, while oiling, caught his right hand in one of the sheaves and lost his fingers and half of his palm.

The principal point argued by the parties is whether the case is governed by the municipal law of Panama, which gave private persons a right to sue the Government in tort, or by the municipal law of the United States which did not give such a right. It is the opinion of the Commission that the liability in this case does not depend upon the decision of this question. Manzo's injury was brought on by the negligent conduct of an agent of the Government of the United States. The responsibility for such an injury depends not on the right to maintain an action under the municipal law, but directly upon the terms of the treaty which provides *inter alia* for decision by the Commission upon "all claims for losses or damages originating in acts of officials or others acting for either government and resulting in injustice . . .".

The Commission, taking into account the seriousness of the injury and the length of time for which compensation has been delayed, decides that the Government of the United States is obligated to pay to the Government of Panama, on behalf of Juan Manzo, \$2,500, without interest.

#### JAMES PERRY (UNITED STATES) *v.* PANAMA

(May 27, 1933, dissenting opinion of Panamanian Commissioner, undated. Pages 71-77.)

ARREST, IMPRISONMENT, DETENTION OF ALIEN, INTERPRETATION OF MUNICIPAL LAW.—CRIMINAL PROCEEDINGS AGAINST ALIEN.—PRINCIPLES OF INTERNATIONAL LAW, JUSTICE, EQUITY. Arrest and imprisonment of claimant, October 28, 1910, on charge of theft. Proper order for arrest and provisional detention, November 7, 1910, on ground of grave indications against him. Order, February 14, 1911, that accused should answer on charge in Court. Acquittal of claimant, April 21, 1911. *Held* that there were no undue delays in proceedings. *Held* also that Commission, in view of articles I ("equitable settlement") and V ("principles of international law, justice and equity"), Claims Convention, July 28, 1926, shall be guided by broad rather than by narrow conceptions. *Held* further that evidence did not provide grave indications and, there-