

CHARLIE R. RICHESON, GEORGE KLIMP, JAMES LANGDON,
ET AL. AND W. A. DAY (UNITED STATES) *v.* PANAMA

(June 26, 1933. Pages 268-273.)

In this case the United States of America have presented claims of, respectively, \$12,500 on behalf of the heirs of Maurice Langdon; \$6,000 on behalf of Charlie R. Richeson; \$500 on behalf of W. A. Day; \$1,000 on behalf of George Klimp. Interest on these amounts is also claimed. In the course of the proceedings the claim on behalf of George Klimp has been withdrawn because the claimant was not an American citizen at the material time. The claims arise out of the events which happened at Colón on April 2, 1915, and are based on an alleged failure to afford police protection, improper conduct of the police and failure to prosecute the offenders.

On the afternoon of April 2, 1915, a game of baseball was played at Colón between the team of the Fifth United States Infantry and the Cristóbal team. The latter was composed of enlisted men of the Coast Artillery Corps stationed at Cristóbal and of civilians, most of whom were employees of the Panama Canal or the Panama Railroad. The game was largely attended by local inhabitants and a special train had brought to Colón between 1,200 and 1,500 soldiers from Camp Otis and the Camp of Empire, both in the Canal Zone. The train was left standing opposite the baseball field. There were also at the game

and in town men from the Coast Artillery Corps at Cristóbal. During the game soldiers left the field and went into town.

The military authorities do not seem to have thought of the possibility of any disturbance occurring during the return of the soldiers to the train after the game or of trouble being caused by soldiers in town. A patrol (see for the status of these patrols the Commission's Opinion in the Baldwin case, Registry No. 9) was only ordered for the night. The authorities of Colón had been equally improvident: the police force on the baseball field consisted of four men under a sublieutenant; the number of spectators, including the soldiers, was about 3,000. The Governor of Colón had noticed, while going to attend the game, that soldiers in the town were drinking and that there was no patrol present. On the field he approached a captain of the Fifth Infantry informing him that he foresaw trouble and requesting that a patrol be provided. The captain thereupon arranged for a patrol of 12 men to be assembled on the field at the end of the game.

While the game was still going on, news reached the field that a soldier had been wounded by the police. This probably referred to the wounding of Richeson and Klimp. The general in command of the Canal Zone forces, who was a spectator at the game, thereupon gave orders that the infantrymen from Camp Otis and from the Camp of Empire should be made to go to the awaiting train. He also ordered the turning out of a provost guard from the Coast Artillery Corps. The provost guard was armed with rifles. There reigned great excitement amongst the soldiers, who nevertheless, although not all of them very willingly, were moving towards the train in obedience to the orders of officers and non-commissioned officers.

Meanwhile, further trouble had arisen when the spectators left the baseball field after the end of the game. It was caused by civilians who interfered with the soldiers. Both sides threw stones and other missiles. The police that came from the field became involved in this fight on the side of the civilians. The sublieutenant of police and one or two of his squad fired their revolvers at the soldiers. The sublieutenant wounded a soldier, who is not a claimant because he lacked American citizenship at the time he received his injury.

The captain in charge of the provost guard had met in the town the Governor, accompanied by the captain of police and a group of policemen. After some explanations had been given it was agreed that the guard should keep the soldiers moving towards the train, and that the police should deal with the civilians. Both the soldiers and the police then approached the place where stones were being showered. The movements of the police thereafter and until the end of the fighting are unknown. A squad of the provost guard, under Corporal Langdon, had advanced close to the street where the train was, when they were fired at from right and left by policemen from street corners. There is also a statement that shots were fired by a civilian in the same way. Corporal Langdon was killed by one of these shots. His own rifle had not been discharged. Men of his patrol had answered the shots of the police, but missed. Shortly afterwards an American lieutenant, accompanied by a soldier who, it was then thought, could identify the policeman who had killed Corporal Langdon, came upon the sublieutenant of police who had been firing at the train. The soldier identified him and the lieutenant requested the captain of the police to arrest him, which he did.

The investigations started after the events were similar in character to those conducted after the disturbances which took place in Panama City on February 14 of the same year (see the Opinion of this Commission in the Baldwin case, Registry No. 9) and the Panaman investigation was similarly satisfactory. Different soldiers had stated that they could identify policemen who had fired,

if confronted with them at an early date. The confrontation, when it finally took place, because insisted upon by the American Legation, was doomed to be futile, owing to the lapse of time. The sublieutenant of police was tried for the killing of Corporal Langdon, but his acquittal was a foregone conclusion, as it had long been discovered that the soldier, who identified him on the day of the events, did not identify him as the man who fired the shot that killed Langdon, but as the man who wounded the soldier on the train. Moreover it had also been discovered that Langdon could not have been killed by a shot coming from the direction where the sublieutenant was located. The sublieutenant was not, however, prosecuted for the wounding of the soldier on the train.

In the opinion of the Commission no claim lies against the Republic of Panama for the wounding of Richeson. The policemen were having difficulties with a group of soldiers. The Commission disbelieves the various versions of the soldiers putting the blame on the police. On the other hand the evidence of the soldiers themselves shows that they interfered with the action of the policemen and put the latter in the position of having to defend themselves. Richeson came up very close to the group, but turned and ran when he saw the police draw their revolvers. In the absence of convincing evidence, that the police at that moment overstepped the limit of permissible measures for asserting their authority, the Commission must consider Richeson's case as that of an onlooker, incidentally wounded in the course of the efforts of the police to restore order.

The Commission finds that the death of Corporal Langdon must be attributed to inadequate police protection and improper police action. Whether Langdon was killed by one of the policemen who had been on the baseball field or by some other policeman or by a civilian, the responsibility rests on the Government of Panama whose police failed to maintain order at the scene of the disturbance, although their task was alleviated by the measures taken by the American military authorities, and whose police aggravated the situation by firing on the soldiers instead of dispersing the civilians against whom they could no doubt have asserted their authority of they had used, or even threatened to use, their arms against them.

Claim has been made on behalf of the heirs of Maurice Langdon, being a brother, a half-brother and the descendants of three deceased sisters. There is no evidence that any of them depended upon the deceased for their support. The measure usually adopted in fixing the amount of an award in favor of relations not being the parents of children of the deceased is therefore lacking in this case. The Commission feels that under the circumstances its award should not be for a larger amount than what it considers to express the very minimum of the reparation due by one State to another on account of its responsibility for the death of the latter's citizen.

The claimant William A. Day, together with other non-commissioned officers, had left the baseball field before the end of the game, to carry out the order that all infantrymen in town should be instructed to return to the train. After having discharged this duty, he was himself going to the train when he was struck down by a missile. Some soldiers helped him to the train. His evidence states that the police began to fire at the train shortly after he had gained it; that there was no firing when he saw the police before he was wounded. It is clear from his testimony that he was wounded when the disturbance near the train had just broken out.

Even assuming that the missile that wounded him was thrown by a civilian, of which there is no evidence, the Commission does not find that there is a responsibility upon the Government of Panama for the wounding of the claimant.

Decision

The claims presented on behalf of Charlie R. Richeson and W. A. Day are disallowed.

The Republic of Panama is obligated to pay to the United States of America, on behalf of the heirs of Maurice Langdon, the sum of \$2,000, without interest.
